

HAPPSEA1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

16 Cr. 467 ALC

5 NORMAN SEABROOK AND MURRAY HUBERFELD,

6 Defendants.

7 -----x

8
9
10 October 25, 2017
11 9:04 a.m.

12
13 Before:

14 HON. ANDREW L. CARTER, JR.,

15 District Judge
16 and a jury

17
18 APPEARANCES

19 JOON H. KIM,
20 United States Attorney for the
21 Southern District of New York
22 KAN MIN NAWADAY,
23 MARTIN BELL,
24 RUSSELL CAPONE,
25 Assistant United States Attorneys

HAPPSEA1

APPEARANCES (Continued)

BRACEWELL, LLP,
Attorneys for defendant Seabrook
BY: PAUL LEWIS SHECHTMAN, Esq.
MARGARET EMMA LYNAUGH, Esq.
Of counsel

MAZUREK LIPTON, LLP
Attorneys for defendant Huberfeld
BY: HENRY EDWARD MAZUREK, Esq.
EVAN LOREN LIPTON, Esq.
Of counsel

Also Present:
BARD HUBBARD, Special Agent FBI
YOLANDA BUSTILLO, Paralegal USAO
AUGUSTA GRANQUIST, Paralegal

HAPPSEA1

1 (Trial resumed; jury not present)

2 THE COURT: Please be seated. Okay. We're waiting to
3 make sure that all the jurors are here. I'm not sure if
4 they're all here yet.

5 Is there anything else we need to deal with today
6 before this witness gets back on the stand and is crossed
7 today? I understand that counsel for Huberfeld has decided not
8 to file any request for any curative instructions.

9 Is there anything else we need to deal with today
10 before we start?

11 MR. SHECHTMAN: Not before the witness.

12 MR. BELL: I don't believe so. I understand the
13 witness is in the security line, or maybe at the end of it
14 since that was some minutes ago, and should be up shortly.

15 THE COURT: All right. Remind me, after this witness,
16 who's up next?

17 MR. BELL: Gilad Kalter, the witness from yesterday's
18 brief colloquy.

19 THE COURT: Okay. And give me a sense as to the
20 length of Mr. Kalter's direct examination, if you have a sense.

21 MR. CAPONE: Between an hour and an hour and a half,
22 your Honor.

23 THE COURT: And does defense counsel have a sense of
24 the cross-examination of that witness?

25 MR. MAZUREK: About 45 minutes.

HAPPSEA1

1 THE COURT: Okay.

2 MR. SHECHTMAN: Of this witness?

3 THE COURT: Of Mr. Kalter.

4 MR. SHECHTMAN: I think there may be none from us,
5 your Honor.

6 THE COURT: All right. Regarding Mr. Kalter, just to
7 make sure that the record is complete, I think it was pretty
8 obvious from yesterday, but I did find that his invocation of
9 the Fifth Amendment was reasonable and proper. It's reasonable
10 for that witness to believe that if he disclosed the
11 information sought by the government here, that that
12 information could be used against him in a criminal proceeding,
13 whether in State Court or in Federal Court.

14 In particular, there was and is a pending case in the
15 Eastern District of New York, and there's substantial overlap
16 between the issues in disclosing this information here. If he
17 were to disclose that, that information could be used directly
18 to incriminate him in that other proceeding. In addition, that
19 information could be used to lead to other evidence that could
20 be used against him. Anything else from counsel on that?

21 MR. SHECHTMAN: Nothing, your Honor.

22 MR. CAPONE: No, your Honor. Thank you.

23 THE COURT: Okay. Let me just check in. How are we
24 doing with jurors?

25 THE DEPUTY CLERK: We're waiting for six more.

HAPPSEA1

1 THE COURT: All right. So we're waiting for six more
2 jurors. Okay. I'll check back in with counsel.

3 Are there any updates, in terms of defense counsel,
4 now that you've seen the direct, the length of your cross of
5 this witness?

6 MR. SHECHTMAN: Maybe five or ten minutes longer.

7 THE COURT: Okay. And other defense counsel, anything
8 else?

9 MR. MAZUREK: No, your Honor.

10 THE COURT: All right. I'll be back.

11 MR. SHECHTMAN: Your Honor, can I make an unusual
12 request, which is, in some sense, I don't represent
13 Mr. Huberfeld but I've gotten to know him and his family, and
14 for the last couple of days, the family has occupied the second
15 row. There are three young gentlemen in white shirts, who are
16 Jona Rechnitz's friends as I understand it, they're not members
17 of the Huberfeld family.

18 Now, I'm well aware that it's not a wedding; there's
19 not a bride side and a groom side. I asked them, first
20 courteously, then not courteously, if they would move so the
21 family could sit together in that row. They've declined. I
22 take it that is evidence that they are, in fact, Jona's
23 friends.

24 If there's any way that the Court thinks -- has any
25 power to say could the family sit together in the second row.

HAPPSEA1

1 I know the Huberfeld family would appreciate it greatly.

2 THE COURT: Okay. Counsel for the government?

3 MR. BELL: This, for a number of reasons, including
4 those given by the United States v. Gupta, United States v.
5 another Seabrook is probably territory into which the Court
6 should not wade. With jurisprudence, obviously, we have open
7 courtrooms, and we don't believe we have reserved seats outside
8 of the ones that counsel and I are fortunate enough to occupy
9 here in the front.

10 I'm not sure that it would be wise for the Court to
11 step in here. We appreciate Mr. Shechtman's remarks with
12 respect to courtesy, but I'm not sure that there is any sort of
13 appropriate relief to be obtained here.

14 MR. SHECHTMAN: It's a public courtroom, but my sense,
15 I could be wrong on this, is that the third row is as public as
16 the second, and that's the reason for what I think is a modest
17 request. If the Court doesn't want to do it, I understand, but
18 it is upsetting to people who are here to support somebody.

19 THE COURT: Just so I understand the level of
20 consternation here, it's not an issue in terms of the family
21 members in the third row not being able to see or not being
22 able to hear.

23 MR. SHECHTMAN: No.

24 THE COURT: It's a question of them not being able to
25 sit together?

HAPPSEA1

1 MR. SHECHTMAN: Totally, your Honor. And, look, if
2 you get reversed by the Second Circuit because three people are
3 sitting on the third row as opposed to the second, that circuit
4 is more difficult than I believe it to be.

5 THE COURT: Well, I guess it doesn't seem that it's
6 necessarily appropriate for me to get into this. It seems to
7 me that, again, this is a case that is litigated very adroitly
8 by both sides. It seems to me that what jumps out as a
9 practical solution is if everyone can hear, why don't they all
10 just sit in the third row? If they just want to sit with each
11 other, why can't they all just sit together in the third row or
12 the fourth row, the fifth row or whatever it is. If it's just
13 a matter of them sitting together, it seems to me that that
14 would probably solve the problem if that's what the issue is.

15 MR. MAZUREK: Judge, since this is my client's family,
16 as well, I just hope that everyone's going to maintain civility
17 in the gallery, and what I've heard from some of the family
18 members is that there have been rude speaking.

19 THE COURT: There's been what?

20 MR. MAZUREK: Rude, rude speaking about -- in that
21 second row from these three gentlemen about my client. They've
22 been rude to his wife. So I just am hoping that we all can get
23 along here, and that that's not going to be a problem, but I
24 have alerted the court security officer to watch the situation.

25 THE COURT: Okay. Anything else from Mr. Shechtman?

HAPPSEA1

1 MR. SHECHTMAN: Nothing, your Honor.

2 THE COURT: Okay. It doesn't seem, again, that it's
3 appropriate for me to get into this. The main concern is
4 making sure that no one communicates anything to the jurors of
5 any sort, and to make sure that there are no disruptions in the
6 courtroom. Counsel in this matter have been doing a very fine
7 job of remaining civil with each other, even though they are
8 hotly contesting this litigation, and lawyers are not
9 necessarily known for being the most peaceful folks, the most
10 non-confrontational folks on the planet. But in this case,
11 counsel have been doing a great job of getting along with each
12 other.

13 It seems to me that it would be important for everyone
14 in the gallery to take counsel's lead and treat each other
15 civilly, and generally it's a good thing for people if you
16 don't have anything nice to say, to just not say anything. But
17 again, I'm not going to weigh into this and start getting into
18 potentially trammeling on people's First Amendment rights.

19 It doesn't seem that it's helpful for folks in the
20 audience to be throwing shade at each other at all, no matter
21 who they're here to support or who they're here to show their
22 non-support of. It doesn't seem that that's particularly
23 helpful. So I hope that everyone in the audience will take the
24 lead from counsel, not only counsel but the parties themselves,
25 Mr. Seabrook, Mr. Huberfeld, and to the extent that there are

HAPPSEA1

1 representatives from the government, they have all been acting
2 in a very fine manner in terms of treating each other with
3 respect.

4 Anything else, counsel?

5 MR. SHECHTMAN: No.

6 MR. BELL: No, your Honor.

7 MR. MAZUREK: No, your Honor.

8 THE COURT: Okay. I'll be back when the jurors get
9 here. See you soon.

10 (Recess)

11 THE COURT: The jurors are here. I'd like to be able
12 to go straight through to 11:30. Why don't we do this now, if
13 any parties or counsel need to use the restroom, you can use
14 the robing room so we can go straight through to 11:30. Is
15 that good?

16 MR. BELL: Should we get the witness, your Honor?

17 THE COURT: Sure, get the witness.

18 (Pause)

19 THE COURT: Okay. Let's bring the jury in.

20 (Jury present)

21 THE COURT: Okay. Please be seated. Welcome back. I
22 hope you had a pleasant evening. Let's continue with the case
23 on trial. Go ahead, counsel.

24 MR. SHECHTMAN: May I proceed, your Honor?

25 THE COURT: Yes.

HAPPSEA1

Husamudeen - Cross

1 ELIAS HUSAMUDEEN,

2 called as a witness by the Government,

3 having been previously duly sworn, testified as follows:

4 CROSS-EXAMINATION

5 BY MR. SHECHTMAN:

6 Q. Mr. Husamudeen, good morning.

7 A. Good morning.

8 Q. My name is Paul Shechtman, and I represent Norman Seabrook.

9 A. Yes.

10 Q. Would I be correct, sir, that you have been on the board of
11 the Corrections Officers' Benevolent Association for more than
12 20 years?

13 A. Yes.

14 Q. Close to 22 years?

15 A. Yes, sir.

16 Q. And --

17 THE COURT: Let me just ask the witness to make sure
18 you keep your voice up and lean into the microphone. Can the
19 jurors hear everything? Go ahead, counsel.

20 Q. And you're comfortable if I call it COBA this morning?

21 A. Yes, I am.

22 Q. And you know my client Norman Seabrook quite well?

23 A. I've known him for about 22 years.

24 Q. And he first ran for president of COBA, would I be correct,
25 in 1995 and he beat out several, I think maybe as many as

HAPPSEA1

Husamudeen - Cross

1 seven, other groups that were running against him?

2 A. Yes, we did.

3 Q. And you ran with him as treasurer?

4 A. Yes.

5 Q. And you ran with him again -- elections are every four
6 years?

7 A. Yes.

8 Q. And you ran with him again in 1999?

9 A. Yes.

10 Q. 2003?

11 A. Yes.

12 Q. 2007?

13 A. Yes.

14 Q. 2011?

15 A. Yes.

16 Q. And 2016, the last time, as the first vice president?

17 A. Yes, sir.

18 THE COURT: And, again, let me just ask the witness to
19 make sure you keep your voice up. Go ahead, counsel.

20 Q. And each time -- Mr. Seabrook and you and the slate of
21 candidates, each time you won?

22 A. Yes.

23 Q. And that is a secret ballot of the members?

24 A. Yes, it is.

25 Q. And you came to Mr. Seabrook's attention and to the

HAPPSEA1

Husamudeen - Cross

1 attention of other members of COBA because you wrote a widely
2 read newsletter, in some sense an underground newsletter, that
3 pointed out the inefficiencies and shortcomings of the
4 incumbent administration back in 1994, '95?

5 A. Yes, sir.

6 Q. And Mr. Seabrook came to you and asked you to run with him?

7 A. Yes.

8 Q. And you have remained a board member of COBA ever since
9 that time?

10 A. Yes.

11 Q. You were treasurer from 1995 to 2000 -- 2010, I'm sorry,
12 sir?

13 A. Yes.

14 Q. And fair to say you did a good job?

15 A. Yes.

16 Q. You don't have to toot your own horn.

17 A. Okay.

18 Q. But fair to say. And you cared about the union members?

19 A. Yes.

20 Q. And you cared about keeping a watchful eye over COBA's
21 assets?

22 A. Yes.

23 Q. And you were a fiduciary, you had a duty to do that, and
24 you took it seriously?

25 A. Yes.

HAPPSEA1

Husamudeen - Cross

1 Q. And Mr. Seabrook was also a fiduciary?

2 A. Yes.

3 Q. Now, in 2010, Mr. Seabrook asked you to become the first
4 vice president?

5 A. Yes.

6 Q. And am I right that is because the fellow who was first
7 vice president at the time resigned or retired and so there was
8 an opening?

9 A. Yes, he retired.

10 Q. And it was the prerogative of the president to fill that
11 interim vacancy; it was his power to fill the vacancy? Let me
12 put it differently. He appointed you?

13 A. Yes.

14 Q. Okay. In 2012, you ran with him -- he ran as president,
15 and you ran as first vice president?

16 A. Yes.

17 Q. And I repeat myself, but again, you won?

18 A. Yes.

19 Q. I'd also be correct that in 2016, Mr. Seabrook was required
20 to step aside; he was suspended because he was indicted in this
21 case?

22 A. Yes.

23 Q. And you became acting president, you filled the void?

24 A. Yes.

25 Q. I'd also be correct that a great deal has changed for the

HAPPSEA1

Husamudeen - Cross

1 membership of COBA since 1995, when Mr. Seabrook and you were
2 first elected?

3 A. Yes.

4 Q. And I think you testified yesterday a change for the
5 better?

6 A. Absolutely.

7 Q. As you sit here today, you are, I think also fair to say,
8 enormously proud of COBA's accomplishments in the past 22
9 years?

10 A. Yes.

11 Q. Significant increases in pay for the members?

12 A. Yes.

13 Q. Multiple pay increases over that period?

14 A. Yes, sir.

15 Q. Parity with cops and firefighters, police officers and
16 firefighters?

17 A. Yes.

18 Q. Mr. Seabrook and you and the other board members increased
19 life insurance benefits?

20 A. Yes, we did.

21 Q. Increased medical benefits?

22 A. Yes.

23 Q. Increased legal services?

24 A. Yes.

25 Q. And during that 20 years that you were together, I think

HAPPSEA1

Husamudeen - Cross

1 the term you used yesterday was Mr. Seabrook was the face and
2 voice of the union?

3 A. Yes.

4 Q. And it could be a loud voice?

5 A. Yes.

6 Q. And for lack of a better word, it could be a smooth voice,
7 it could be a charming voice?

8 A. Yes.

9 Q. And when he was the face and voice of this union, you were
10 right beside him?

11 A. Yes.

12 Q. And you said yesterday that we wanted to promote
13 corrections officers, that it was that simple, that's what you
14 were about?

15 A. Yes.

16 Q. And I think you also said you wanted to put them on the map
17 everywhere in the world?

18 A. Yes.

19 Q. And everywhere in the world would mean having correction
20 officers respond to the scene after 9/11?

21 A. Yes.

22 Q. Respond to Long Island after Hurricane Sandy?

23 A. Yes, sir.

24 Q. Respond to Puerto Rico, not in this hurricane, but in a
25 prior hurricane?

HAPPSEA1

Husamudeen - Cross

1 A. Yes.

2 Q. Probably in this hurricane. Did they respond?

3 A. They would be prepared to go out, yes.

4 Q. And responded to New Orleans after Hurricane Katrina?

5 A. Yes.

6 Q. What that was about was to raise the profile of corrections
7 officers, to show how dedicated public servants they were and
8 to earn them respect?

9 A. Yes.

10 Q. You testified that Mr. Seabrook was driven, would that be
11 correct?

12 A. Yes.

13 Q. And you were driven?

14 A. Yes, we were.

15 Q. And by driven, I don't mean you had a chauffeur?

16 A. No.

17 Q. You, the two of you, devoted enormous amount of time to
18 making sure that corrections officers got a fair deal, both at
19 Rikers and in contract negotiations?

20 A. Yes, along with other members of the executive board,
21 absolutely.

22 Q. I'm sorry, I didn't hear the last part?

23 A. Along with other members of the board, yes.

24 Q. Along with other members of the board. This was not a
25 one-man show?

HAPPSEA1

Husamudeen - Cross

1 A. No, it was not.

2 Q. During that period of time, there were numerous legislative
3 victories for COBA?

4 A. Yes.

5 Q. In some sense, things you wouldn't imagine when you started
6 in 1995?

7 A. Yes.

8 Q. Among them, there was a variable support bill that helped
9 fund and support retirees' pensions?

10 A. Yes.

11 Q. There was an anti-privatization bill?

12 A. Yes.

13 Q. And what that said was that the jails of New York City, the
14 officers there would be COBA officers, and we weren't going to
15 privatize and let private guards have the run of the place?

16 A. Yes.

17 Q. There was a three-quarters bill?

18 A. Yes.

19 Q. I take it that what that said was that if a corrections
20 officer was disabled, he could retire with 75 percent pension,
21 tax free?

22 A. Yes.

23 Q. And those are just some of the legislative accomplishments?

24 A. Yes.

25 Q. And, again, it was all about respect for corrections

HAPPSEA1

Husamudeen - Cross

1 officers?

2 A. Yes.

3 Q. And benefits for corrections officers?

4 A. Yes, sir.

5 Q. And equity, particularly equity with police officers and
6 firefighters?

7 A. Yes.

8 Q. That's because, in your view, and it's certainly a
9 reasonable view, this was probably the most dangerous job in
10 the City of New York?

11 A. I still feel that way, yes.

12 Q. Now, I think you said if you compared it to the prior
13 administration, the benefits that were won, there was no
14 comparison?

15 A. No comparison.

16 Q. It was night and day, day and night?

17 A. If I must say so myself.

18 Q. You can this morning.

19 A. Yes.

20 Q. And among the things you negotiated, the union negotiated
21 under Mr. Seabrook's leadership, was an annuity payout?

22 A. Actually, it was negotiated in the 1968.

23 Q. But added to greatly during the 22 years that you and
24 Mr. Seabrook were there?

25 A. We continued, yes.

HAPPSEA1

Husamudeen - Cross

1 Q. And the way that worked, if I understand it, is that the
2 city, New York City, contributed money to a fund, and they
3 contributed a certain amount of dollars for each day that a
4 correction officer worked on the job?

5 A. Yes.

6 Q. And that money was then invested in a portfolio selected by
7 the board of trustees of that annuity fund?

8 A. Yes.

9 Q. And when a corrections officer retired, that annuity
10 benefit could be paid out to him when he retired?

11 A. Yes.

12 Q. It could be paid in a lump sum?

13 A. Yes.

14 Q. But he had a series of other options, right? He could
15 leave it in; he could put it in an IRS. It was really his
16 choice, but it was his money?

17 A. Yes, or her.

18 Q. Pardon?

19 A. Or her money.

20 Q. I stand corrected. Or her money. And there was a board
21 for that annuity fund, and it was the president, the first vice
22 president, the treasurer and financial secretary?

23 A. Yes.

24 Q. A four-person board?

25 A. Yes.

HAPPSEA1

Husamudeen - Cross

1 Q. And Mr. Seabrook was on it as president from 1995 to 2016?

2 A. Yes.

3 Q. And you were on it until 2010 as treasurer, and then to
4 2016 as first vice president, and now as acting president?

5 A. Yes.

6 Q. In addition, there was an investment advisor named Thomas
7 Reynolds?

8 A. Yes, sir.

9 Q. He was an independent investment advisor in the sense that
10 he had his own company; he wasn't a COBA employee?

11 A. Yes.

12 Q. And there was a lawyer, Howard Wien, of the Koehler firm,
13 who advised the annuity, the four of you?

14 A. Yes. And at times, Richard Koehler.

15 Q. And at times, Richard Koehler himself?

16 A. Yes.

17 Q. Who was the senior partner in the Koehler law firm?

18 A. Yes.

19 Q. And fair to say that the two of them, Mr. Reynolds and
20 Mr. Wien, were men of good judgment?

21 A. I'm sorry, were what?

22 Q. Men of good judgment?

23 A. Can you ask that again? I'm sorry.

24 Q. Yesterday you used the words they were professionals. You
25 agree with me, they were professionals?

HAPPSEA1

Husamudeen - Cross

1 A. Yes.

2 Q. And you have great respect for them?

3 A. They were professionals, yes, I respect them.

4 Q. And a key part of your job on the annuity board, really the
5 central part, was the investment of those funds the city
6 provided to the annuity fund?

7 A. Yes.

8 Q. And you didn't just put it in a checking account and let it
9 sit there idly; you tried to earn interest on it?

10 A. Yes.

11 Q. And if we go to 2013, you had that money in the annuity
12 fund, and that annuity fund is separate from the pensions that
13 the corrections officers get?

14 A. Yes, sir.

15 Q. So people refer to it sometimes as a pension fund, but it's
16 really a sort of supplemental fund?

17 A. Correct.

18 Q. And you had that money invested with several entities in
19 2013?

20 A. Yes.

21 Q. Wright Investor Services?

22 A. Yes.

23 Q. International Real Estate or Intercontinental Real Estate?

24 A. Yes.

25 Q. And Advent Capital?

HAPPSEA1

Husamudeen - Cross

1 A. Yes.

2 Q. And if we could, Ms. Granquist, would you put Government
3 Exhibit 309 up on the screen?

4 THE COURT: Hold on a minute. Make sure the jurors
5 have it. Go ahead.

6 MR. SHECHTMAN: Am I okay just showing this to the
7 jury?

8 MR. BELL: Yes, no objection.

9 THE COURT: Hold on. We're having some problems.
10 It's not on the witness' screen. Hold on.

11 Does counsel have an extra hard copy of it?

12 MR. MAZUREK: I have it.

13 THE COURT: Yes, go ahead. Co-counsel is approaching
14 with a hard copy of it. Do the jurors all have it in front of
15 you?

16 JURORS: Yes.

17 MR. SHECHTMAN: Judge, our device shows that it's on,
18 but it's obviously not on.

19 THE COURT: We'll go analog for now. We'll call IT
20 and get them to come up here, but he has a hard copy of it.
21 Unless, do you need him to mark anything on this?

22 MR. SHECHTMAN: I don't.

23 THE COURT: Okay.

24 BY MR. SHECHTMAN:

25 Q. So, Mr. Husamudeen, would you look at what is Government

HAPPSEA1

Husamudeen - Cross

1 Exhibit 309 with me, and would I be correct that is the minutes
2 of the April 17th and 22nd board meeting in 2013?

3 A. Yes.

4 Q. And it shows present Mr. Seabrook, who was the president;
5 you, who at this time was first vice president; Michael
6 Maiello, who was the treasure; and Amelia Warner, who was the
7 financial secretary?

8 A. Yes.

9 Q. And also present are those two gentlemen you mentioned, the
10 two professionals, Mr. Wien and Mr. Reynolds?

11 A. Yes.

12 THE COURT: Counsel, sorry to interrupt. Just as a
13 housekeeping matter, is 309 in evidence?

14 MR. BELL: Yes, we had the stipulation yesterday, your
15 Honor.

16 THE COURT: Okay. Great. Go ahead, continue.

17 Q. And if you'll turn to the second page, Ms. Granquist.

18 There was an investment manager's report that's
19 principally a report, I take it, by Mr. Reynolds?

20 THE COURT: I think he wants you to turn to the second
21 page.

22 A. There isn't -- oh, I'm sorry. It's on the back. Okay.
23 Yes, okay.

24 Q. Do you have it?

25 A. Yes.

HAPPSEA1

Husamudeen - Cross

1 Q. And if you look at that second page with me, you'll see
2 where it says investment managers' reports?

3 A. Yes.

4 Q. And those are the reports of the investment managers that
5 we mentioned before, the three funds that you had your money
6 with?

7 A. Yes.

8 Q. And I say "you" to mean the annuity fund?

9 A. Yes.

10 Q. And you'll see that two gentlemen made a report for Wright;
11 am I correct?

12 A. Yes.

13 Q. And Wright was a fund that mostly invested in stocks and
14 bonds?

15 A. Yes.

16 Q. Stocks, sometimes people call equities?

17 A. Yes, sir.

18 Q. And am I correct that one of the things that was reported,
19 if you look at that paragraph, was that the returns that Wright
20 was getting on its investments did not meet their benchmark?

21 A. Yes.

22 Q. And what that meant was --

23 THE COURT: Hold on. You just have to speak audibly
24 into the microphone.

25 A. Yes.

HAPPSEA1

Husamudeen - Cross

1 Q. What that meant was they didn't do as well as they had
2 predicted, you had hoped, what was benchmarked for them?

3 A. Yes.

4 Q. And if you look at the bottom, you'll see there was also a
5 report from Mr. Weinstein from Intercontinental, at the very
6 bottom of that page?

7 A. Yes.

8 Q. And Intercontinental is a real estate investment fund?

9 A. Yes, it is.

10 Q. And it invests in real estate all around the country?

11 A. Yes.

12 Q. And I take it what happens is those real estate properties,
13 they may be a shopping center in South Carolina, but they show
14 up rent, and it's that rent that gives you your return?

15 A. Yes.

16 Q. And you'll see the report there was that they had earned
17 15 percent on an annualized basis during that year?

18 A. Yes.

19 Q. And fair to say that's a healthy return?

20 A. Yes, it is.

21 Q. If you look at the third page with me, it says at the very
22 top of that third page, that the trustees discussed liquidating
23 assets in other accounts to add to the Intercontinental
24 account?

25 A. Yes, I see.

HAPPSEA1

Husamudeen - Cross

1 Q. Indeed, there was a motion made to increase the fund's
2 investment in the Intercontinental Real Estate fund by \$5
3 million?

4 A. Yes.

5 Q. And that passed unanimously?

6 A. Yes.

7 Q. That's because at 15 percent, it made more sense to have
8 more money there?

9 A. Yes.

10 MR. SHECHTMAN: Now, if you would put up,
11 Ms. Granquist, what is Government Exhibit 307.

12 And I believe that's also in evidence, Judge.

13 THE COURT: Okay. Can we bring a hard copy --

14 MR. BELL: We have no objection it being in evidence.

15 THE COURT: It's admitted into evidence without
16 objection. Can we bring a hard copy for the witness also.

17 (Government's Exhibit 307 received in evidence)

18 THE COURT: Why don't we just check with the jurors.
19 Do you all have it on your screen?

20 JURORS: No.

21 THE COURT: No? Not yet? Hold on a second.

22 MR. SHECHTMAN: Have we got it?

23 THE COURT: Do we have it now?

24 JURORS: Yes.

25 THE COURT: Okay. Go ahead.

HAPPSEA1

Husamudeen - Cross

1 BY MR. SHECHTMAN:

2 Q. If you'd look with me at 307, if you just can look at the
3 first page, that is a report by Mr. Reynolds to the fund?

4 A. Yes.

5 Q. And when I say "the fund," to the annuity fund?

6 A. Yes.

7 Q. And the only thing I want you to look at is the second page
8 of that, and if you see where it says "note" on that second
9 page, right before it says "manager's allocation" and I
10 apologize that we can't get it up on your screen. Do you see
11 where it says "note" there?

12 A. Yes.

13 Q. And if you look down, you'll see -- Ms. Granquist, if
14 you'll highlight it -- 5 million was transferred to
15 Intercontinental from Wright on 9-3-13?

16 A. Yes.

17 Q. And that's what the board voted on and \$5 million came out
18 of Wright because Wright, of all these three firms, was the one
19 that was performing the least well?

20 A. Yes.

21 Q. Now, Ms. Granquist, if you could put up Government
22 Exhibit 306.

23 THE COURT: Okay. And can we get a hard copy for the
24 witness?

25 MR. BELL: Your Honor, I don't believe 306 is in, but

HAPPSEA1

Husamudeen - Cross

1 we're happy to --

2 THE COURT: Is there any objection to 306?

3 MR. SHECHTMAN: I move it in, your Honor.

4 THE COURT: Okay. 306 is admitted without objection.

5 (Government's Exhibit 306 received in evidence)

6 MR. SHECHTMAN: As soon as the jurors have it, if you
7 can just raise your hand when you have it.

8 Q. Sir, if you look at the cover --

9 THE COURT: Hold on a second.

10 MR. SHECHTMAN: Do you have it, Judge?

11 THE COURT: I have it. I just want to make sure the
12 jurors do.

13 MR. SHECHTMAN: I think they do.

14 THE COURT: Do you all have it?

15 JURORS: Yes.

16 BY MR. SHECHTMAN:

17 Q. If you look at the cover of 306, this is -- again, it's a
18 report from Mr. Reynolds, and you can see Reynolds Consulting
19 Services down at the very bottom of that first page.

20 A. Yes.

21 Q. And it's a report to the Benevolent Association Annuity
22 Fund?

23 A. Yes.

24 Q. And it's a report as of December 31st, 2013; so it's
25 essentially the end of the year?

HAPPSEA1

Husamudeen - Cross

1 A. Yes.

2 Q. And if you'll turn over to the second page, and I'd be
3 correct that, at the end of the year, you had 66 percent --
4 66.04 percent, to be precise -- of your money in Wright, 17.27
5 in Intercontinental, and 16.69 in Advent?

6 A. Yes.

7 Q. And I think we talked about the fact that Wright is a
8 stocks and bonds fund, Intercontinental is a real estate fund,
9 and am I right that Advent is a private equity fund, it
10 actually buys and sells companies?

11 A. Advent?

12 Q. Yes.

13 A. Invested in what is called convertible bonds.

14 Q. It's a convertible bond company? Okay. I apologize. In
15 any event, that was your allocation, 66 percent in Wright,
16 17 percent in the real estate fund and 16.6 percent in Advent?

17 A. Yes.

18 Q. And the change -- if you look at the prior column, right,
19 the change, you'll see that Intercontinental there is 6
20 million; am I correct, 6.6?

21 A. Yes.

22 Q. And by the end of the year, it's 12?

23 A. Yes.

24 Q. And that's not because -- I mean, the interest rate was
25 good, it was 15 percent, but that really reflects the fact that

HAPPSEA1

Husamudeen - Cross

1 you moved \$5 million there?

2 A. Yes.

3 Q. And of the three, again, you moved it there because Wright
4 was the least successful?

5 A. Yes.

6 Q. Now, that report from Mr. Reynolds came to you shortly
7 before the January 2014 meeting of the annuity fund board?

8 A. I don't recall if it came before. Usually we got these
9 things at the meeting.

10 Q. You got them at the meeting?

11 A. Yes.

12 Q. So although it's dated 12-31, it was actually handed out at
13 the meeting?

14 A. Yes.

15 Q. Okay. And so let's take a look at that meeting.

16 And, Ms. Granquist, if you could put up 310,
17 Government Exhibit 310.

18 THE COURT: Do the jurors have it?

19 JURORS: Yes.

20 THE COURT: Okay. Go ahead.

21 Q. Mr. Husamudeen, do you have it?

22 A. Yes.

23 Q. And these are the minutes of the January 13, 2014, Annuity
24 Fund Board, correct?

25 A. Yes.

HAPPSEA1

Husamudeen - Cross

1 Q. Held at the COBA's offices at 75 Broad Street?

2 A. Yes.

3 Q. And present are the board trustees, you, Mr. Seabrook,
4 Mr. Maiello and Ms. Warner?

5 A. Yes.

6 Q. And what I want you to do is turn over to the second page,
7 if you would, and again -- and I think I'm right in saying this
8 happened almost every meeting, the managers come in and talk
9 about how their funds are doing?

10 A. Yes.

11 Q. And if you look at the top of that page, you will see that
12 Wright came in and, again, what we learn is the returns for
13 Wright for 2013 did not meet the benchmarks that the trustees
14 had set?

15 A. Yes.

16 Q. So Wright was still lagging behind?

17 A. Yes.

18 Q. And then, if you look down at the bottom, there was new
19 business, and to read down the minutes, Mr. Landesman,
20 Mr. Kalter, Mr. Kaplan made a proposal for Platinum?

21 A. Yes.

22 Q. And do you recall that?

23 A. Yes.

24 Q. And they made, what in the vernacular is called, a pitch?

25 A. Yes.

HAPPSEA1

Husamudeen - Cross

1 Q. And they were a hedge fund?

2 A. Yes.

3 Q. Which was a somewhat new concept, certainly a new concept
4 for the annuity fund?

5 A. Yes.

6 Q. But not that complicated a concept. They invested in a
7 variety of things. They can invest in stocks or bonds or real
8 estate or commodities or companies; they were another
9 investment vehicle?

10 A. Yes.

11 MR. SHECHTMAN: And, Ms. Granquist, if you could put
12 up 402.

13 Question, are you comfortable if we put that in
14 evidence?

15 MR. CAPONE: It's in.

16 MR. SHECHTMAN: It's in.

17 THE COURT: Okay. Do the jurors have that in front of
18 them?

19 JURORS: No.

20 THE COURT: Okay. All right. Do the jurors have it
21 now?

22 JURORS: No.

23 THE COURT: You have it? Okay. Before you start,
24 counsel, we have someone from IT here. Let's see if we can get
25 the witness' screen working.

HAPPSEA1

Husamudeen - Cross

1 (Pause)

2 MR. BELL: Judge, just for the record, we're not
3 actually sure that Government Exhibit 402 was moved in, but we
4 don't object to it.

5 MR. SHECHTMAN: That's fine. I'll move it, just to be
6 safe.

7 THE COURT: Okay. 402 is admitted without objection.

8 (Government's Exhibit 402 received in evidence)

9 THE COURT: Okay. Hold on just a second.

10 (Pause)

11 So counsel, IT has informed me -- I was hoping this
12 would be a two minute fix -- this may take a little longer.
13 Let's just keep going the way we've been doing it. We'll give
14 the witness the documents in hard copy. I think the jurors can
15 still see it, if it's all right with everyone. I think the
16 witness already has 402, unless it comes back.

17 MR. SHECHTMAN: Judge, if it's possible, part of the
18 remediation process seems to be that we've added red lines to
19 the screen. I don't know if they can be removed or not, but
20 they're not part of the document.

21 THE COURT: Okay. Let's see if we can deal with that.
22 Are the red lines off of the screen?

23 MR. SHECHTMAN: They are.

24 THE COURT: All right. Okay.

25 MR. SHECHTMAN: Thank you.

HAPPSEA1

Husamudeen - Cross

1 BY MR. SHECHTMAN:

2 Q. And Platinum made a pitch that day to COBA, and I think you
3 testified yesterday --

4 THE COURT: Okay. Hold on one second, counsel.

5 (Pause)

HAPJSEA2

Husamudeen - cross

1 THE COURT: The witness's monitor is still not
2 working, but the red lines are gone.

3 BY MR. SHECHTMAN:

4 Q. I think you said yesterday that that pitch by Platinum
5 lasted about an hour?

6 A. Yes, yes, sir.

7 Q. Its purpose was to describe to you the fund, how it worked,
8 how successful it was and the like?

9 A. Yes.

10 Q. And if you look at 402 now in evidence, that is an email
11 from Mr. Mann at Platinum to Mr. Reynolds, who was your
12 investment adviser?

13 A. Yes.

14 Q. And it is is dated January 6th, which is about a week
15 before your annuity fund board meeting?

16 A. Yes.

17 Q. If you look with me at the second page, the third page of
18 it, really the page that begins fund overview?

19 A. Yes, I have it.

20 Q. And I just want you to look in the box in the center of
21 that page and you'll see it says that Platinum, PPVA fund, that
22 was one of the funds that Platinum had and that was the fund
23 you eventually invested in. Am I correct?

24 A. Yes.

25 Q. It says that that fund had \$1.28 billion invested across

HAPJSEA2

Husamudeen - cross

1 five product?

2 A. Yes.

3 Q. And rate of return since its inception in 2003, if you look
4 at the top, you'll see it says launched in 2003, the rate of
5 return was 18.67 percent? Do you see that first number in the
6 box?

7 A. Yes.

8 Q. And I take it that also is a healthy rate of return?

9 A. Yes.

10 Q. Were you told that in this pitch? That wasn't something
11 that they hid from you?

12 A. Excuse me?

13 Q. They told you that the rate of return was over 18 percent?

14 A. I recall them telling me, but I am sure they included,
15 might have included that.

16 Q. It is not the kind of thing they want to hide from you?

17 MR. BELL: Objection.

18 THE COURT: Overruled. I will allow it. You can
19 answer.

20 A. I agree.

21 BY MR. SHECHTMAN:

22 Q. If you go with me further back, there is a section called
23 awards, industry awards and recognition, and you'll see that
24 they were voted best non-directional hedge fund in the top 20
25 from HSB bank, they were No. 5, Barclays had them No. 1 and

HAPJSEA2

Husamudeen - cross

1 then No. 3 in terms of their annual ranking. Was that
2 information shared with you?

3 A. I don't recall.

4 Q. Again not something you'd expect them to hide from you?

5 MR. BELL: Objection.

6 THE COURT: I'll allow it.

7 A. No.

8 BY MR. SHECHTMAN:

9 Q. I mean they were there to encourage you to invest?

10 A. Yes.

11 Q. Now, let's go back, if you would, to the minutes of that
12 board meeting. That is 310, if you would. If you look at the
13 second page of those minutes -- we are going to try to help
14 you. Our apologies. (Pause)

15 Do you have both pages of it? If you look at the
16 second page with me, it says --

17 THE COURT: Do the jurors have it in front of them?
18 Okay. Go ahead.

19 BY MR. SHECHTMAN:

20 Q. It says Mr. Reynolds and Mr. Wien were instructed to
21 perform due diligence and to report back to the chair with
22 their results. Do you see that under the new business?

23 A. Yes.

24 Q. Mr. Reynolds being the investment advisor, Mr. Wien being
25 the lawyer?

HAPJSEA2

Husamudeen - cross

1 A. Yes.

2 Q. And the chair being Mr. Seabrook?

3 A. Yes.

4 Q. And the next sentence says in the event the advisor --
5 (inaudible) -- the chair was authorized to invest up to \$10
6 million to be taken from assets held by right with Platinum,
7 right? That is what the minutes say. Am I correct?

8 A. Yes, that's what the minutes say.

9 Q. In your experience at COBA, the minutes are approved at the
10 next meeting?

11 A. Yes.

12 Q. If they're inaccurate, somebody will speak up?

13 A. If they catch it, if they read it, yes.

14 Q. As far as you know, these minutes were approved?

15 A. I wasn't at that meeting, but as far as I know, yes.

16 Q. Now, that approval at that meeting was conditional on
17 Mr. Reynolds' due diligence and Mr. Wien's due diligence?

18 A. Yes.

19 Q. Due diligence means just that, you're supposed to -- those
20 professionals are supposed to review and be diligent in their
21 review?

22 A. Yes.

23 Q. I take it that I think you testified yesterday that you
24 hadn't heard of Platinum before that meeting?

25 A. Yes.

HAPJSEA2

Husamudeen - cross

1 Q. You hadn't heard of Mr. Kalter or Andrew Kaplan, the
2 gentleman who came to that meeting?

3 A. Yes.

4 Q. And you hadn't heard of Murray Huberfeld?

5 A. Yes.

6 THE COURT: Again let me ask the witness to make sure
7 you continue to lean into the mike and keep your voice up.

8 Go ahead.

9 BY MR. SHECHTMAN:

10 Q. Would I be correct that you first, the annuity fund first
11 invested in Intercontinental real estate in 2011?

12 A. I don't recall, but --

13 Q. Let's see if we can help. If you can put 307 back up.

14 THE COURT: Can someone help the witness with 307.

15 (Pause)

16 THE WITNESS: Thank you. I have it.

17 BY MR. SHECHTMAN:

18 Q. Do you have it?

19 A. Yes.

20 Q. This is a little bit confusing, but do you see where it
21 says Intercontinental at the top, it says inception, September
22 3rd, 2013. Do you see that in that chart there?

23 A. Yes, I do.

24 Q. If you go down further, and it says \$12 million there?

25 A. Yes.

HAPJSEA2

Husamudeen - cross

1 Q. Go down further, you'll see that it says in the second
2 line, 5.8 million was transferred to Intercontinental from
3 Wright on 5-10-11. It is hard to think that the inception was
4 in 2013 if the first money went in there in 2011?

5 A. Okay.

6 Q. If you look down, we have seen this another \$5 million
7 transferred to Intercontinental in September of 2013. If you
8 add those up, that is about 10.8 million, you add the interest
9 to it and you get that 12 million. On the basis of that, sir,
10 I say to you it looks like Intercontinental knocked on your
11 door in 2011?

12 A. Okay.

13 Q. By your "door," I mean the annuity fund board?

14 A. Yes.

15 Q. I take it you hadn't heard of Intercontinental in 2011 when
16 they made their pitch?

17 A. No.

18 Q. You hadn't heard of Bard Weinstein when he came to meet
19 you?

20 A. No.

21 Q. Peter Elabgian when he came to meet you in 2011?

22 A. No.

23 Q. Petro Palangian?

24 A. No.

25 Q. And that's not uncommon, the fact you hadn't heard of

HAPJSEA2

Husamudeen - cross

1 Platinum, the fact you hadn't heard of Intercontinental, the
2 fact you hadn't heard of the Platinum people, the fact you
3 hadn't heard of the Intercontinental people? You're not a
4 professional financial adviser?

5 A. No, I am not.

6 Q. You're a union leader?

7 A. Yes.

8 Q. Now, yesterday we spent a fair bit of time on Government
9 Exhibit 1072, and I just want to ask if you can put that back
10 up on the screen. Do you have it, sir?

11 A. Yes, I do.

12 Q. I think you said yesterday you had never seen this letter,
13 certainly didn't see it at the time?

14 A. Yes.

15 Q. It is a letter, dated February 14th. If you can go back to
16 the first page in the email, it is delivered from Mr. Wein to
17 Mr. Seabrook, copied to Mr. Koehler, the head of the firm,
18 copied to Tommy Reynolds, the investment adviser, and it is
19 dated, go to the second page, the letter itself is dated
20 February 14th, 2014. What I want to do is just spend a few
21 minutes going through this. If you go over to the second page
22 of the letter, and the paragraph that begins, "First."

23 I apologize for reading so much of this, but I am
24 going to just read it to you if you would and if you will
25 follow along with me.

1 It says First, being that other benefit funds
2 investments are relevant to a discussion of any proposed
3 investment, it is a concern that, to our knowledge, none of the
4 other supplemental benefit funds are invested in this type of
5 hedge fund. Where other retirement funds have invested in
6 hedge funds, they have chosen to invest in "fund of funds.

7 That is a collection of hedge funds managed by an
8 investment manager. By having several hedge funds, the fund of
9 funds diversifies the investment class minimizing the risk, but
10 also potentially reducing the returns.

11 So what looks like unions or at least other entities
12 that had supplemental benefit funds had done is not to pick one
13 hedge fund, but to pick a fund that managed several hedge
14 funds?

15 MR. BELL: Objection.

16 THE COURT: Basis?

17 MR. BELL: Foundation.

18 THE COURT: I'll allow it. You may answer.

19 A. I don't even understand the question.

20 BY MR. SHECHTMAN:

21 Q. I said what that paragraph says, what other supplemental
22 benefit funds --

23 A. Oh, yes.

24 Q. They hadn't put it in one fund?

25 A. Yes.

HAPJSEA2

Husamudeen - cross

1 Q. They put it in a fund of funds, which is to say a fund that
2 had several hedge funds as part of it?

3 A. Yes.

4 Q. And the advantage of that is you diversify, but you don't
5 have it in just one hedge fund, correct?

6 A. Yes.

7 Q. But the disadvantage is you reduce your potential return,
8 and that is what that says?

9 A. Okay.

10 Q. Diversity can minimize risk, but it can also reduce
11 returns?

12 MR. BELL: Objection, your Honor.

13 THE COURT: Do you understand that to be true?

14 THE WITNESS: From reading this?

15 THE COURT: Yes.

16 THE WITNESS: Yes.

17 THE COURT: Go ahead, counsel.

18 BY MR. SHECHTMAN:

19 Q. That is -- you have been -- you're a union leader, but you
20 have been involved in investments for a long time. That is a
21 pretty good rule in life, which is to say, if you want higher
22 returns, you take on a little more risk?

23 A. You're asking me to speculate?

24 Q. No. I am asking whether that is true based on your
25 knowledge?

HAPJSEA2

Husamudeen - cross

1 A. Say that again.

2 Q. If you want a little bit of higher returns, you often time
3 have to take on a little more risk?

4 A. Agreed.

5 Q. You keep it in a checking account, right, and you have no
6 risk, you're FDIC insured and you have no returns, correct?

7 A. That's not this type of fund.

8 Q. I understand. I am just saying that's a simple example of
9 where you want to reduce risk, you can get your risk to zero,
10 but you get your risk to zero and you get your returns to zero?

11 A. Okay.

12 Q. Correct?

13 A. Yes.

14 Q. Now, the next paragraph says the fact that the proposed
15 investment is not a fund of funds, right, and that fund of
16 funds is a fund that invests in several hedge funds, is in our
17 opinion, mitigated, so it is reduced by the fact that this
18 office and the investment consultant -- that is Mr. Reynolds,
19 right?

20 A. Where are you reading?

21 Q. I am reading the second paragraph that says the fact
22 that --

23 A. Okay.

24 Q. Are you with me?

25 A. Yes.

HAPJSEA2

Husamudeen - cross

1 Q. Do you have it highlighted? There you go. The jury?

2 MR. SHECHTMAN: The jury has it.

3 Q. The fact the proposed investment is not a fund of funds is,
4 in your our opinion, mitigated, it is reduced by the fact that
5 this office -- that means the lawyers and the investment
6 consultant -- I take it that means Mr. Reynolds?

7 A. Yes.

8 Q. Review of the actual investments made by this product,
9 which is to say, made by Platinum, reveal a traditional fund of
10 funds strategy, thus minimizing but of course not eliminating
11 the risk of large losses.

12 Would I be right what is being said there is if you
13 have a fund of funds, right, you're invested in several hedge
14 funds?

15 MR. BELL: Objection.

16 THE COURT: Please rephrase the question.

17 BY MR. SHECHTMAN:

18 Q. Well, I take it what your lawyers are saying there is if
19 you're invested in a fund of funds, it invests and earns in
20 several hedge funds, but this is just one hedge fund, it is
21 Platinum, but the risk is minimized some because Platinum
22 itself is diversified?

23 MR. BELL: Objection. It needs more foundation.

24 THE COURT: I will allow it. You may answer.

25 A. You are going to have to ask me again. Basically what are

HAPJSEA2

Husamudeen - cross

1 you doing, you're asking me to critique this letter?

2 THE COURT: Hold on. That is not -- you can answer
3 the question. Please rephrase the question, counsel.

4 MR. SHECHTMAN: I will withdraw the question.

5 BY MR. SHECHTMAN:

6 Q. Look down at the bottom with me, if you would, and there
7 were questions asked of you yesterday about a series of
8 concerns, and I just want to go over them quickly with you.

9 If you see, there is a paragraph that begins in light
10 of the foregoing, right, and this paragraph, the concern is
11 that Platinum has not agreed to be fiduciaries. That is the
12 concern?

13 A. I see it.

14 Q. And the next paragraph that begins, Third, the concern
15 there is that there were actual and potential conflicts of
16 interest that were possible. Would I be correct?

17 A. Yes.

18 Q. And the next paragraph, the concern is that when you invest
19 in a risky vehicle like this, you could lose your whole
20 investment?

21 A. Yes.

22 Q. This fund had been around since 2002, but that was still a
23 risk?

24 A. I am sorry.

25 Q. I will withdraw the question.

HAPJSEA2

Husamudeen - cross

1 Then if you go to the next page, it highlights one
2 particular concern?

3 A. Yes, I see it.

4 Q. The concern here is the hedge fund pays redemptions in cash
5 and in kind at the hedge fund's discretion. What your lawyers
6 were concerned about is if you are redeeming, if you wanted
7 your money back, you guys wanted cash? You didn't want an oil
8 well?

9 MR. BELL: Objection.

10 A. That is what the letter says.

11 THE COURT: I will allow it.

12 A. That is what the letter says, yes.

13 BY MR. SHECHTMAN:

14 Q. That was another concern? And that was a particular
15 concern?

16 MR. BELL: Objection.

17 A. This letter --

18 THE COURT: Hold on. Please rephrase the question,
19 counsel.

20 BY MR. SHECHTMAN:

21 Q. That was another concern that is pointed out in this letter
22 that was shown to you yesterday?

23 A. Yes.

24 Q. That concern again is that the payment could be in kind,
25 which is to say, not cash?

HAPJSEA2

Husamudeen - cross

1 A. Yes.

2 Q. As we go forward, I am going to refer to that as payment in
3 kind or PIK. Is that okay?

4 A. Yes.

5 Q. Now, I want to see if we can go behind this letter. This
6 letter is February 14th of 2014, and it is not signed, I think
7 was pointed out yesterday?

8 A. Okay.

9 Q. Correct?

10 A. Yes.

11 MR. SHECHTMAN: Now, Ms. Granquist, if you could put
12 up what is -- and not for the jurors until we get this into
13 evidence -- Defendant Exhibit A.

14 THE COURT: Do you have a hard copy for the witness?

15 MR. SHECHTMAN: The only way to do this is give the
16 computer screen. We'll get it to him.

17 THE COURT: Okay. Hold on a second.

18 What we can do is, can you see that screen?

19 THE WITNESS: If they enlarge it, yes.

20 THE COURT: I think the witness, if you make what
21 you're showing large enough, I think the witness can see it
22 from the screen that is in front of the Court Reporter.

23 MR. SHECHTMAN: That is great.

24 (Off-the-record discussion)

25 THE COURT: Counsel, before you go any further,

HAPJSEA2

Husamudeen - cross

1 Defendant's Exhibit A, is this something you're seeking to
2 introduce into evidence?

3 MR. SHECHTMAN: It turns out my mistake, it actually
4 is Government Exhibit 1027.

5 (Off-the-record discussion)

6 MR. SHECHTMAN: It is part of 1027 and we are all fine
7 with it being admitted.

8 THE COURT: Okay. You are moving it in evidence and
9 it is admitted without objection.

10 MR. SHECHTMAN: I think that's correct.

11 (Government Exhibit 1027 received in evidence)

12 THE COURT: This will be labeled as part of --

13 MR. SHECHTMAN: Government Exhibit 1027, no need to
14 have duplicate markings.

15 MR. BELL: It is already in, your Honor.

16 THE COURT: That is in evidence without objection.

17 Make sure you make it large enough so that the witness
18 can see it. Hold on, let's wait for the jurors to get it in
19 front of them.

20 BY MR. SHECHTMAN:

21 Q. That is a letter to Mr. Landesman and Mr. Kaplan and Mr.
22 Kalter. Those are the people we saw made the presentation for
23 Platinum, and it is a letter from the Koehler firm, and if we
24 go to the end of it, it is a letter from Mr. Wien, correct?

25 A. From here it is not enlarged, but it looks like it is

HAPJSEA2

Husamudeen - cross

1 signed by Mr. Wien. Yes, it is from Mr. Wien.

2 Q. Okay. We'll do our best to enlarge.

3 And I take it like the document you saw yesterday, you
4 were shown yesterday, this is not a letter that you saw at the
5 time?

6 A. No, I didn't see this letter or the other --

7 Q. Let's just look together at the second page, I think, and
8 if you look on the second page, you'll see a sentence written
9 to Platinum by the fund's lawyer. It says we have the
10 following concerns, and it is 1, 2, 3, 4, and one is they're
11 not fiduciaries.

12 THE COURT: Hold on. You have to enlarge it.

13 THE WITNESS: Thank you.

14 BY MR. SHECHTMAN:

15 Q. One is they're not fiduciaries. Two is the conflict of
16 interest. Three is you have the potential to lose everything,
17 and four is it needs liquidity, and you can't accept payments
18 in kind, what I called before PIK.

19 A. Yes, I see it.

20 Q. And this letter is February 5th. It is written to Platinum
21 before that letter we saw which was February 14th?

22 A. Okay.

23 Q. But it is the same four concerns that are expressed in the
24 February 14th letter, fiduciaries, conflict of interest, large
25 losses, PIK?

HAPJSEA2

Husamudeen - cross

1 A. Okay, yes.

2 MR. SHECHTMAN: Now, I am going to ask, Judge, if I
3 can just make this B and we'll worry about A later so I don't
4 have to remark. I will offer defendant exhibit -- I am going
5 to ask we show Defendant Exhibit B.

6 THE COURT: Do you wish to introduce Defendant's
7 Exhibit B into evidence? Is there any objection to that?

8 (Off-the-record discussion)

9 MR. BELL: No objection.

10 THE COURT: Defendant's B is admitted without
11 objection.

12 (Defendant Exhibit B received in evidence)

13 MR. SHECHTMAN: This --

14 THE COURT: You have to make sure the witness has a
15 hard copy.

16 MR. SHECHTMAN: I have to make sure the jury gets it
17 on the screen.

18 THE COURT: Is this something you have a hard copy or
19 we need to make it larger on the Court Reporter's screen.

20 Do the jurors have it on their screen? Okay.

21 BY MR. SHECHTMAN:

22 Q. And this is dated February 18th of 2014, so this is after
23 that unsigned letter that you were shown yesterday? Am I
24 correct on that?

25 A. Yes.

HAPJSEA2

Husamudeen - cross

1 Q. And this is from Mr. Kalter, who we know is at Platinum, to
2 Mr. Landesman, Mr. Kaplan, Mr. Huberfeld, all Platinum people,
3 and the subject is COBA. I take it you didn't see this at the
4 time, either?

5 A. No.

6 MR. SHECHTMAN: Ms. Granquist, if you go down.

7 BY MR. SHECHTMAN:

8 Q. And it says the 10 million is set to come in -- that meant
9 to be to PPVA, the Platinum fund we talked about. Russ is
10 working on a side letter addressing PIK. They dropped the
11 first three points. So it looks like on February 18th, those
12 first three of those four points we talked about have been
13 dropped?

14 MR. BELL: Objection.

15 Q. Were you aware of that?

16 MR. BELL: Objection.

17 THE COURT: Please rephrase the question, counsel.

18 BY MR. SHECHTMAN:

19 Q. Well, the email says they dropped the first three points.
20 Were you aware of that at the time?

21 A. I wasn't aware of the email, the letter, this. I wasn't
22 aware of any of this stuff.

23 Q. Understood completely.

24 Now, the next thing I want to show you is, and we'll
25 wait to show this to the jury, what is Defendant's Exhibit C,

HAPJSEA2

Husamudeen - cross

1 and I will ask if you get that.

2 THE COURT: Are you seeking to introduce Defendant's
3 C?

4 MR. SHECHTMAN: I am, your Honor.

5 MR. BELL: We object, your Honor. A sidebar may be
6 necessary.

7 THE COURT: Let's have a sidebar in the robing room.

8 (Continued on next page)

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HAPJSEA2

Husamudeen - cross

1 (At the sidebar)

2 THE COURT: Thank you. Hold on a second.

3 (Pause)

4 MR. SHECHTMAN: Judge, I asked Ms. Granquist to come
5 in, which is not usual. She will figure out what she does
6 depending on what the court rules. Is that a problem?

7 MR. BELL: We don't object.

8 THE COURT: No, that is fine.

9 (Pause)

10 THE COURT: What is the government's objection?

11 MR. BELL: A number of things, your Honor.

12 We saw this document for the first time this morning
13 despite the fact that the union had been under a subpoena for
14 two years, which leads us to believe that there actually isn't
15 a business record avenue for admission on account of it doesn't
16 appear that they maintained it given we didn't get that through
17 the subpoena.

18 I suppose there is some possibility of an attempt to
19 lay a foundation here through the witness, and I think they
20 should have to go jump through that series of hoops if it comes
21 in at all.

22 THE COURT: So the objection is foundational, you
23 think it is not a business record because this wasn't turned
24 over previously?

25 MR. CAPONE: It is hearsay if it is offered for the

HAPJSEA2

Husamudeen - cross

1 truth unless a hearsay exception can be established.

2 Presumably the proffered exception would be it is a business
3 record. It does not appear to be a document maintained by the
4 union, and they have not produced it to us.

5 Apparently we're told it was given to defense counsel
6 last night or this morning by the attorneys for the union who
7 we have not spoken to and have no -- it is a PDF, a scan, so we
8 have no basis to assess its authenticity or again whether it is
9 a business record. They can try to lay the foundation through
10 this witness, but --

11 THE COURT: Defense counsel?

12 MR. SHECHTMAN: I am speechless. This is a document,
13 right, that is signed by each member of the board, and this
14 witness will say that that is his signature. I am a hundred
15 percent confident of that.

16 The reason I am confident of it, we got it last night,
17 and we went online, looked for the signature. That is his
18 signature, Mr. Seabrook's signature. We went online and looked
19 for Mr. Maiello's signature. Mr. Maiello's signature, right?

20 It is a resolution. Now, I don't know why it wasn't
21 turned over. I called last night because when that -- the
22 fault is mine -- I didn't focus on that document.

23 THE COURT: Let's do this in the short term. We have
24 a jury waiting. This will take a little bit more than two
25 minutes to resolve this. I'll give the jurors a 10-minute

HAPJSEA2

Husamudeen - cross

1 break while we look at this.

2 (Continued on next page)

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1 (In open court)

2 THE COURT: Here is what we are going to do. We are
3 going to give you a 10-minute morning break so you can use the
4 restroom. Don't discuss with counsel, don't discuss this case
5 amongst yourselves, don't do independent research, and I will
6 see you in 10 minutes. Thank you.

7 (Jury excused).

8 THE COURT: Please be seated. Let me see the document
9 again.

10 MR. SHECHTMAN: Judge, we'll put it up on your screen.
11 Is that on your screen?

12 THE COURT: Hold on a second. (Pause)

13 Can you show me the second page of this document.
14 (Pause) Just so we're clear, the witness is out of the
15 courtroom. Is that correct?

16 MR. BELL: Yes, your Honor.

17 THE COURT: Let he hear more from the government as to
18 the basis of your objection here.

19 MR. BELL: It is indisputably a hearsay document. So
20 it has to be an applicable exception. Presumably although
21 perhaps we should check in with defense counsel at this point
22 to make sure we are on the same page, they looked to get this
23 in as a business record?

24 MR. SHECHTMAN: Judge, I am happy to get this in not
25 for its truth. What I want to get in is that this person

1 signed this document, right? Which shows, which says these
2 things. If you want to leave it at that, I am okay with that,
3 but this is a business record. We are putting in emails in
4 this case between two people, right, who if they talked in the
5 hallway wouldn't be a business record. This is hard to imagine
6 this isn't a business record. It is signed by every one of
7 these people.

8 THE COURT: Hold on. While we keep going down this
9 line, I know that counsel are very experienced and tend to
10 reflexively when we talk about a document go straight to the
11 business records exception, and that is a ground by which many
12 documents are admitted.

13 Let me ask counsel to weigh in why some of these
14 statements contained within this document wouldn't fit under
15 hearsay exception 15, statements and documents that affect an
16 interest in property?

17 MR. SHECHTMAN: Your Honor, I want to say the
18 following: I think from Columbia Law School, I forgot that
19 hearsay exception. That is exactly what they do. If you talk
20 about a document that affects an interest in property, this is
21 it. I apologize to the court for being a step behind.

22 THE COURT: I know I am springing this on folks. If
23 you need to look at my rules of evidence book, do that and let
24 me get your thoughts on it. The same thing for defense
25 counsel. Here, I have another.

HAPJSEA2

Husamudeen - cross

1 MR. LIPTON: We have one.

2 THE COURT: Okay.

3 (Pause)

4 MR. SHECHTMAN: Judge, that seems to fit and, indeed,
5 if you look at the whereas clause, right --

6 THE COURT: Just hold on and let the government get a
7 chance to look at that and make sure everyone has had a chance
8 to read that exception first.

9 (Pause)

10 THE COURT: Has the government had a chance to look at
11 Rule 803 (15)? Let he hear what the government's view is on
12 this and let me hear from defense counsel on this.

13 Does the government have any objection to that
14 exception applying?

15 MR. CAPONE: Perhaps, your Honor. We don't have the
16 case law in front of us, but I think it may be that that rule
17 envisioned the admission of things, just deeds and other things
18 publicly recorded.

19 THE COURT: I think that is 14. I think that is 14,
20 talking more about things publicly recorded. 15 doesn't have
21 in the rule anything about any requirement that something be
22 filed publicly and the like. I think you're talking about 14.
23 I am talking about 15.

24 MR. CAPONE: 14 is the documents themselves. 15 is
25 statements in those documents. I understand the distinction

HAPJSEA2

Husamudeen - cross

1 your Honor is drawing. I would be more comfortable taking a
2 look at the case law.

3 THE COURT: What about let me hear from defense
4 counsel on this.

5 MR. SHECHTMAN: Judge, if you look at the advisory
6 committee note, and it says that thus, for example, a deed
7 purporting to have been executed by an attorney, in fact, may
8 recite the existence of the power of the attorney or may recite
9 the -- (inaudible) -- these recitals are exempt from the
10 hearsay rule.

11 The circumstances under which the dispositive
12 documents are executed and the requirement that the recital be
13 germane to the purpose of the document are believed to be
14 adequate guarantees of trustworthiness particularly in view of
15 the inapplicability of the rule if dealing with the property
16 has been inconsistent with the document.

17 So you say to yourself the following, right? That
18 this is a recital here that is surely germane to the purpose of
19 the document. It explains why it is that we are moving \$10
20 million in this direction.

21 If you ask the question whether it is inapplicable
22 because the dealings with the property were inconsistent with
23 the document, just the opposite is true, the \$10 million moves.
24 So it seems directly on point and again the bottom line here is
25 the following:

1 That all of these hearsay exceptions and advisory
2 committee shows as much are based on guarantees of
3 trustworthiness. The notion is we have a document signed by
4 four trustees at the bottom of it in the left corner, and I
5 don't know whether we can bring this up, right, is the Koehler
6 & Isaac -- what does one call it? File something or other,
7 right, which says Howard which, of course, is Howard Wien,
8 labor, document COBA, union, Platinum, WBD. It says
9 resolution, right, which of course is what this is, it is the
10 resolution of this issue.

11 It is a copy, but God bless the Federal Rules of
12 Evidence, they don't require originals unless there is some
13 genuine issue about it not being authentic, it not being real.
14 There can't be a genuine issue here. This is a copy like
15 hundreds of other copies that go into evidence in the
16 courtroom.

17 So you have a document that fits the hearsay
18 exception, thankfully the court has found for us that we missed
19 it fits the all, everything in the advisory committee note and
20 the fact that it is a copy in the Year 2017 doesn't keep it out
21 of any federal courtroom.

22 THE COURT: Tell me, what is the date of this document
23 again?

24 MR. SHECHTMAN: The best we can do is this, your
25 Honor. At the top it says proposed 2-2014 after 5 weeks of due

HAPJSEA2

Husamudeen - cross

1 diligence. Five weeks would make sense because the meeting
2 itself was January 13th.

3 So it is not dated otherwise in that, but everyone is
4 signing this in order to dispose of the property. This is a
5 witness yesterday who testified that he knew nothing about this
6 till November, right? Are we really going to keep out a
7 document that he signed that shows that he knew it?

8 THE COURT: Let me hear from the government again.

9 MR. BELL: A number of things, your Honor.

10 Let's start out where Mr. Schechtman left off. With
11 respect to the handwriting at the top, Mr. Schechtman says that
12 the timing would make sense. Of course it would. We think
13 that is there is some reasonable probability that is why, it
14 is, in fact, there. We don't know when that handwriting was
15 put down relative to the rest of the stuff there. The
16 handwriting presents its own hearsay problem.

17 THE COURT: Why doesn't at some level -- why does that
18 matter? It seems to me my recollection of this witness'
19 testimony from yesterday is that -- correct me if I am wrong --
20 that he wasn't aware of this situation. Make sure I am not off
21 there because I thought the witness had said yesterday, and
22 especially when he is talking about the Puerto Rican Day Parade
23 and the like, that he had no knowledge of any of this.

24 MR. BELL: Setting aside the Puerto Rican Day Parade,
25 which references its own tranche of money from different funds,

1 purported correspondence we have here, I think that that
2 testimony belies the fact this document was not produced by the
3 union goes to the very reliability issues that we're trying to
4 raise.

5 Mr. Schechtman, who --

6 THE COURT: Before we get there, I guess what my
7 question is, isn't the existence of this document or this
8 purported signature of this witness on this document
9 inconsistent with the witness's testimony from yesterday?

10 If that is the case, then we are not talking about the
11 statements within the document being offered for the truth of
12 the matter asserted. They're being offered as showing an
13 inconsistent prior statement or at least an inconsistencies.
14 They're not being offered for the truth.

15 Again what we are talking about here I think is we are
16 talking about the issue that comes up with documents all the
17 time of essentially double hearsay. There is the first hearsay
18 layer that comes with the document itself which is what we have
19 been focusing on with respect to the business records exception
20 or statements that affect an interest in property.

21 Then there are the actual statements within the
22 document itself. It seems to me the statements within the
23 document itself are relevant and not hearsay. They go, I
24 believe -- and make sure I am not off here -- to show that this
25 witness is not entirely credible when the witness said that

HAPJSEA2

Husamudeen - cross

1 this witness wasn't aware of the back-and-forth about this
2 investment. I'll talk about the later hearsay problem first.
3 Is that correct? Is that your understanding, counsel for the
4 government?

5 MR. BELL: I think that is largely right, your Honor,
6 and it may be valid as impeachment use. I don't think that
7 necessarily means it comes into evidence, but --

8 THE COURT: That is what I am trying to get at.

9 It seems to me there is no dispute some of the
10 statements here and the fact that this witness allegedly signed
11 this document, there is no hearsay issue there. That is going
12 toward the latter part of hearsay. That is not being offered
13 for the truth of the matter asserted.

14 Perhaps with the document itself coming into evidence,
15 there are these issues. I am not sure it is necessary for the
16 document itself to come in at this point. It does seem the
17 document very well may come into evidence. I am not sure if it
18 is necessary to have the document now, but I will hear from
19 counsel on this.

20 I don't want to delay the jury. I don't want to delay
21 this trial needlessly. It very well may be that counsel who is
22 quite able can go into the statements contained within the
23 document without introducing the document itself, and the fact
24 that this witness signed this document, then we can deal with
25 the evidentiary issues later in terms of the first level of

HAPJSEA2

Husamudeen - cross

1 hearsay, whether or not the document itself comes into
2 evidence.

3 MR. BELL: Substantially, your Honor that is right.

4 We are attempting to make contact with the union to
5 allay what concerns we have with respect to the documents.
6 Again we noted at the beginning of the sidebar in the robing
7 room the concern we have. I think your Honor is right as to
8 the most, the most acute part of this.

9 THE COURT: Let he hear from defense counsel on this.

10 MR. SHECHTMAN: Judge, I think you got it right first,
11 right, which is to say, 14 says that the document showing an
12 interest in property is admissible as the hearsay exception.
13 15 says the recitals are admissible. There is a hearsay
14 exception.

15 It is not limited to the use. It is limited to
16 documents that affect an interest in property. You couldn't
17 have a document that more affected an interest in property than
18 a document in which the five trustees say this money can be
19 moved from one entity to another, right?

20 So that means it is admissible under 14, the document,
21 and the recital, right, which comes before it are admissible
22 under 15.

23 THE COURT: The issue is with 14, I think there is an
24 an issue because I don't think a foundation has been laid in
25 terms of it being kept in a public office. That may be the

HAPJSEA2

Husamudeen - cross

1 issue with 14.

2 MR. BELL: I think, your Honor, with respect to -- now
3 I'm losing track, 15, it may also be necessary for counsel to
4 lay some foundation as to whether this action qualifies as
5 dispositive document. We haven't heard anything at this point
6 the effect of the resolution is within the sort of language and
7 practices. That is a relative minor note, but we note it
8 anyway.

9 In other words, there can be, depending on what the
10 witness would say about what these resolutions mean and what
11 their effect is, some difference between this and something
12 like a deed.

13 THE COURT: It seems to me just to try to shortcut
14 because I don't want to have the jury not being productive now.
15 It also seems it is very likely, I know defense counsel may not
16 have been prepared to do this at this time, that a business
17 record exception can easily be laid with this witness, it does
18 seem to me.

19 MR. SHECHTMAN: My guess is what this witness is going
20 to say is I don't remember this, right? Because yesterday what
21 he said was that this investment was not made in the usual
22 fashion. The board didn't sign onto this.

23 THE COURT: What I am saying in terms of the business
24 record exception, if there is a foundation that is laid such
25 that you know as an executive board member that sometimes the

HAPJSEA2

Husamudeen - cross

1 board passes resolutions, and you know that those resolutions
2 are written down, and those resolutions are kept by someone in
3 the ordinary course of business, et cetera, et cetera, et
4 cetera, till we get to the actual resolution, and then I think
5 again it seems to me this can probably easily be laid, the
6 foundation can easily be laid.

7 If not, we'll see where we are.

8 MR. SHECHTMAN: I'll do it. You're right on 15, but
9 on 14 -- so I will do it as a business record. I thank the
10 court.

11 THE COURT: Again, if the government has this other
12 concern, it seems again once this foundation is laid, that is
13 not an issue. The fact you may have other issues that can be
14 brought up we can deal with later in the course of this trial
15 if you think the document is not authentic. If this witness
16 lays the foundation for this document as a business record, and
17 I don't know if he needs to acknowledge his signature, but that
18 does it.

19 MR. BELL: Understood. We may have some voir dire for
20 the foundation being laid.

21 THE COURT: Ready to bring the jury in, are we? All
22 right. Let's bring the jury back in. Let's get the witness
23 back on the stand.

24 (Jury present)

25 THE COURT: Please be seated. Welcome back. Let's

HAPJSEA2

Husamudeen - cross

1 continue with the case on trial. Go ahead, counsel.

2 MR. SHECHTMAN: Judge, do you have the copy? Can I
3 get it back? (Inaudible).

4 (Pause)

5 THE COURT: Go ahead.

6 BY MR. SHECHTMAN:

7 Q. Mr. Husamudeen, on your screen is what has been marked as
8 Defendant's Exhibit C, and would I be correct that at the top
9 of that it has some language about a resolution?

10 A. I can't read it.

11 THE COURT: He is going to enlarge it for you.

12 THE WITNESS: Yes, I see resolution of the trustees.

13 BY MR. SHECHTMAN:

14 Q. Go to the very end of it.

15 MR. BELL: Can we arrange for the witness to have a
16 hard copy of the document?

17 (Pause)

18 JUROR: Is the jury supposed to see this?

19 THE COURT: No, not yet.

20 BY MR. SHECHTMAN:

21 Q. At the end of that document, if you go to the very end of
22 it with me, there is a paragraph that begins, "Now, therefore."

23 Am I correct?

24 A. Yes.

25 Q. And then it is followed by a covenant -- the jury can't see

HAPJSEA2

Husamudeen - cross

1 it yet -- and then four signatures?

2 A. Yes.

3 Q. And that second signature I would be correct is yours?

4 A. Yes.

5 Q. And you recognize it as yours?

6 A. Yes.

7 Q. And the first signature is Mr. Seabrook's, whose signature
8 you have seen a lot?

9 A. Yes.

10 Q. And that is his?

11 A. Yes.

12 Q. And the third you recognize as Mr. Maiello's signature?

13 A. Yes.

14 Q. And you have seen that a lot?

15 A. Yes.

16 Q. I don't know if you know Ms. Warner, is the fourth hers?

17 A. I don't really know, but it is there.

18 Q. Those are the four members, trustees of the annuity fund?

19 A. Yes.

20 Q. And you've all signed this resolution?

21 A. Yes.

22 Q. Would I be correct that these resolutions are typically
23 prepared by your lawyers?

24 A. Yes.

25 Q. Would I be correct they're always prepared by your lawyers?

HAPJSEA2

Husamudeen - cross

1 A. Yeah, you would.

2 Q. Yes?

3 A. Yes.

4 Q. And if you look at the very left-hand corner of this one,
5 and we may not be able to see this well. Can you see it on the
6 screen? Let's skip it because it will be too hard for you to
7 see it. I did that last night.

8 THE COURT: In the lower left?

9 THE WITNESS: Yeah.

10 BY MR. SHECHTMAN:

11 Q. It is a resolution signed by each of the board trustees?

12 A. Yes, this resolution is signed.

13 Q. And again --

14 MR. BELL: Sorry. I didn't hear that last answer.

15 THE COURT: He said yes.

16 MR. BELL: He said something after that.

17 THE WITNESS: "Prepared by the lawyers."

18 BY MR. SHECHTMAN:

19 Q. Prepared by the lawyers, right?

20 A. Yeah.

21 Q. It is the practice of the lawyers to maintain those
22 resolutions so that the union has a record of its resolutions?

23 A. Yes.

24 Q. And if you wanted a resolution, wanted to go back, you
25 would call your lawyers and say do you have that resolution?

HAPJSEA2

Husamudeen - cross

1 A. Yes.

2 Q. Because they maintain it and they keep it and that's their
3 job?

4 A. Yes.

5 Q. They prepare it and they maintain it?

6 A. Yes.

7 MR. SHECHTMAN: I offer Defendant's Exhibit C into
8 evidence.

9 MR. BELL: Brief voir dire?

10 THE COURT: Sure.

11 VOIR DIRE EXAMINATION.

12 BY MR. BELL:

13 Q. I want you to take a moment to look at the document as a
14 whole, Mr. Husamudeen. Once you do, I have a couple of
15 questions for you, okay?

16 A. Okay.

17 Q. Take a look at the document at this point.

18 A. (Pause)

19 Q. Have you had a moment, Mr. Husamudeen?

20 A. Yes.

21 Q. I want to first direct your attention to the handwriting at
22 the top of the first page. Do you see that?

23 A. Yes.

24 Q. Prior to your looking at this today, Mr. Husamudeen, were
25 you at all familiar with that handwriting on this document?

HAPJSEA2

Husamudeen - cross

1 A. No.

2 Q. Are you familiar with -- now, Mr. Schechtman asked you a
3 moment ago a number of questions about the way in which
4 resolutions are prepared and who prepares them. Do you recall
5 those questions?

6 A. Yes.

7 Q. Are you, prior to today, familiar with this specific
8 resolution?

9 A. I am sorry. Say that again.

10 Q. Prior to seeing it today on the stand right now, do you
11 recall seeing this specific resolution before?

12 MR. SHECHTMAN: This is voir dire?

13 THE COURT: Is there an objection?

14 MR. SHECHTMAN: Yes.

15 THE COURT: Sustained.

16 BY MR. BELL:

17 Q. Do you recall signing this, sir?

18 A. Yes.

19 MR. BELL: One moment, please.

20 (Off-the-record discussion)

21 MR. BELL: Your Honor, we maintain our objection with
22 respect to the handwriting at the top of the document which the
23 witness --

24 THE COURT: Hold on.

25 (Pause)

1 THE COURT: Overruled.

2 MR. SHECHTMAN: Your Honor, I offer Defendant's C into
3 evidence.

4 MR. BELL: We object.

5 THE COURT: That objection is overruled. Defendant's
6 C is admitted.

7 (Defendant Exhibit C received in evidence)

8 CROSS-EXAMINATION (continued)

9 BY MR. SHECHTMAN:

10 Q. So this is a resolution of the trustees of the Correction
11 Officers Benevolent Association. Am I correct?

12 A. The annuity fund trustees.

13 Q. Of the annuity fund? My apologies?

14 A. Yes.

15 Q. And signed by each of the board trustees?

16 A. Yes.

17 Q. And would I be correct that many of your resolutions are in
18 this form where they have whereas clauses that begin it?

19 A. Yes.

20 Q. That is the way lawyers often prepare resolutions?

21 A. You would know better than I do but, yes.

22 Q. So let's go back and just look at some of these whereas
23 clauses. It says -- look at the second one whereas the
24 investments managed by right associates (a mix of fixed income
25 and equity products) did not meet the benchmark for calendar

HAPJSEA2

Husamudeen - cross

1 year 2013. That is a whereas clause we talked about, right,
2 had not met its benchmark. I'm correct?

3 A. Yes.

4 Q. Let's continue, go back to the document itself.

5 Whereas, the next whereas clause, whereas, Platinum
6 management made a presentation to the trustees on the date set
7 forth above. That was January 13th, 2014. Pertaining to its
8 Platinum Partners value arbitrage fund, an investment product
9 in the hedge fund classification. That whereas clause I take
10 it also is accurate in that Platinum had come in to that
11 January 13th meeting and made a presentation?

12 Am I correct?

13 A. Yes.

14 Q. Let's go to the next one.

15 Whereas, the trustees instructed the investment
16 consultant, Reynolds Consulting Services and its counsel,
17 Koehler & Isaccs, to perform the due diligence with respect to
18 the investment product and manager. That we talked about, the
19 January 13th meeting directs both Tommy Reynolds and the
20 lawyers to do due diligence, correct?

21 A. Yes.

22 Q. Whereas, such due diligence was performed and both fund
23 counsel and the consultant advised that such investment would
24 be prudent. Do you see that?

25 A. I see it, yes.

HAPJSEA2

Husamudeen - cross

1 Q. And you signed this document, correct?

2 A. Yes, I did.

3 Q. And you have been doing this for a long time, and I take it
4 you read things before you sign them?

5 A. Most times.

6 Q. Let's go to the next one.

7 Whereas, the trustees have concluded that investing in
8 this hedge fund will provide a greater likelihood of higher
9 returns for the participants, and that is true, those returns
10 were 18 percent. Am I correct?

11 A. That's what is here, yes.

12 Q. That is what was presented to you in that pitch, am I
13 correct?

14 A. Yes, yes.

15 Q. The next one.

16 Whereas, the historical performance of Wright warrants
17 continuing Wright as an investment manager for the type of
18 financial products in which it regularly invests regarding less
19 of its 2013 performance.

20 You weren't cutting off Wright? You weren't taking
21 them to zero, right? They still had a lot of money?

22 A. No. They still had money, yes.

23 Q. And then it says now, therefore, the board resolved to
24 invest \$10 million with Platinum management, the investment in
25 the Platinum Partners value arbitrage fund. In order to

HAPJSEA2

Husamudeen - cross

1 accommodate this, the board instructed Reynolds and Koehler &
2 Isaccs to take all necessary steps so that the \$10 million in
3 assets held by Wright would be liquidated and the proceeds
4 transferred to Platinum for investment.

5 Do you see that?

6 A. Yes, I see it.

7 Q. If we go to the very top of the first page, you'll see a
8 notation that says prepared February 20th, 14, after five weeks
9 due diligence. That February 20th would be about a week after
10 the document that was shown to you yesterday, that February
11 14th letter?

12 A. I am not sure of the date I signed this resolution because
13 it is the date we signed it is not on here, but, yeah, I see
14 the proposed 2/20, but again it doesn't really matter because I
15 still never saw this front page of --

16 Q. (Multiple voices)

17 THE COURT: Hold on. Don't talk over each other. Go
18 ahead.

19 BY MR. SHECHTMAN:

20 Q. You signed it and every member of that four-person board
21 signed it?

22 A. Yes, I signed it.

23 Q. Do you recall when you signed it?

24 A. No, I don't recall when it was signed.

25 Q. Your testimony yesterday was that you didn't even know

HAPJSEA2

Husamudeen - cross

1 about this, this investment had been made until November. Does
2 that refresh your recollection?

3 A. Say that again.

4 Q. Does this refresh your recollection that you knew about
5 this well before November?

6 A. I was in the January meeting where we agreed to have the
7 attorneys vet these people and find out about them before we
8 invested. So, of course, I knew it from the January meeting as
9 a board of trustee, that we agreed that we would invest if they
10 checked out. So I am a little --

11 Q. You are not surprised by this? You are not surprised that
12 you signed this?

13 A. No, I am not surprised.

14 Q. I take it that to the extent your testimony yesterday could
15 be interpreted this investment was unusual, right, because Mr.
16 Seabrook did it without all of the board members signing, all
17 board members signed, correct? All the board members signed
18 off on this?

19 A. Yes.

20 Q. That is the way things were usually done?

21 A. We usually signed resolutions after we made certain
22 decisions, yes.

23 Q. You signed this resolution after you made this decision to
24 send \$10 million to Platinum?

25 A. In January of 2014, yes.

HAPJSEA2

Husamudeen - cross

1 Q. Now, I want to show you what is Defendant's Exhibit D, and
2 if you could put it up without the jury seeing it at first.

3 THE COURT: Is this something that you're going to
4 seek to introduce into evidence?

5 MR. SHECHTMAN: I think it is a government exhibit.
6 It may turn out it is easier to do it that way, but I want the
7 government to see it first.

8 THE COURT: Okay. Do you have a hard copy for the
9 witness?

10 MR. SHECHTMAN: We're going to try.

11 MR. BELL: We have no objection.

12 MR. SHECHTMAN: Do you want to do it as a government
13 exhibit?

14 MR. BELL: Yeah.

15 MR. SHECHTMAN: Your Honor, we are going to --

16 MR. BELL: There is a difference insofar as our
17 version doesn't have the first page.

18 (Off-the-record discussion)

19 MR. SHECHTMAN: We are going to do this as Government
20 Exhibit 317, and I take --

21 THE COURT: Without objection?

22 MR. SHECHTMAN: Admitted without objection.

23 THE COURT: Okay.

24 (Government Exhibit 317 received in evidence)

25 THE COURT: Do the jurors have that yet?

HAPJSEA2

Husamudeen - cross

1 MR. SHECHTMAN: No, but we are getting it.

2 (Pause)

3 THE COURT: While the hard copy is handed to the
4 witness, let me check with the jurors, do you have it on your
5 screens yet? Okay, great.

6 (Pause).

7 BY MR. SHECHTMAN:

8 Q. Mr. Husamudeen, this is also dated February 14th. It is
9 from your lawyer to Mr. Seabrook and copies Mr. Koehler, the
10 head of that law firm, and Tommy Reynolds, your consultant.

11 What I want to ask you is, did you see this document
12 at the time?

13 A. No, sir.

14 Q. You're looking at the second page of it?

15 A. Yes.

16 Q. Did you see that at the time?

17 A. No, I didn't.

18 Q. So look at it with me, if you would. That is a letter,
19 dated February 14th, from Tommy Reynolds, who is the consultant
20 we talked about, correct?

21 A. Yes.

22 Q. The professional?

23 And he says that -- the second paragraph -- -- let's
24 do the third paragraph -- our due diligence, we reviewed the
25 Morningstar analysis of Platinum Partners Value Arbitrage Fund,

HAPJSEA2

Husamudeen - cross

1 and that is the fund I take it the money was invested in, as
2 well as reached out to other hedge fund analysts in the
3 industry for their views on Platinum Partners.

4 Do you see that?

5 A. Yes.

6 Q. And that is what due diligence is, you're trying to learn
7 about something, correct?

8 A. Yes.

9 Q. According to Morningstar, the value average arbitrage fund
10 has a five star rating with 268 million in assets. The value
11 of the fund beating the multistrategy category in 2010, 11, 12,
12 13 by various percentages. I'll skip a little bit.

13 The Value Arbitrage Fund has also a strong Alpha
14 contribution in the 3 and 5 year time frames. You would agree
15 with me that neither of us know what that sentence means?

16 A. Yes.

17 Q. It goes down to say the fees are in line with others in the
18 industry, the fund administrator is a good firm, and the
19 auditor is BDO Seidman, which is a large financial firm.

20 Did you see this at the time?

21 A. No. .

22 Q. It is not the kind of thing, would you agree with me,
23 someone would intentionally keep from you, but it is all
24 positive about --

25 MR. BELL: Objection?

HAPJSEA2

Husamudeen - cross

1 THE COURT: Rephrase that.

2 BY MR. SHECHTMAN:

3 Q. If you saw it at the time, would you conclude this was a
4 pretty good investment?

5 MR. BELL: Objection.

6 THE COURT: I will allow it.

7 A. This is addressed to the Board of Trustees. I am a member
8 of the Board of Trustees. I never got this. I never saw this
9 at all.

10 BY MR. SHECHTMAN:

11 Q. I --

12 A. So I never saw this letter. It was never provided to me.

13 Q. You would agree with me it is a positive assessment?

14 A. Yeah, it is a positive-looking letter.

15 MR. SHECHTMAN: I want to show you what is defendant's
16 exhibit -- I will make it E, Judge, and fill in blanks because
17 some of these have turned out to be government exhibits.

18 (Off-the-record discussion)

19 MR. SHECHTMAN: Judge, it may be that when we go
20 forward here, we are going to substitute a government exhibit
21 for this so that the jury doesn't have two of things, but at
22 the moment we would offer this without objection as Defendant
23 Exhibit E.

24 THE COURT: We can do that probably taking a break in
25 like five minutes. If you think this is a good time to take a

HAPJSEA2

Husamudeen - cross

1 break, we can do that now.

2 MR. SHECHTMAN: A few more minutes?

3 THE COURT: What is the document going to be?

4 MR. SHECHTMAN: Defendant Exhibit E and coming in
5 without objection.

6 THE COURT: That is in.

7 (Defendant Exhibit E received in evidence)

8 THE COURT: Do the jurors have it on their screen?
9 Get it on the jurors' screens. Does the witness have a hard
10 copy of it?

11 (Pause)

12 BY MR. SHECHTMAN:

13 Q. I will ask you whether you saw this at the time? It is
14 dated March 1st, 2014?

15 A. I don't recall ever seeing this.

16 Q. So this is after that February 14th letter, unsigned letter
17 that the government talked to you about yesterday, correct?

18 A. Yes.

19 Q. This is an agreement between the COBA Officers Benevolent
20 Association and Platinum, and it says we're pleased that the
21 Correction Officers Benevolent Association Annuity Fund has
22 committed to subscribe to the PPVA. That is the Platinum
23 investment, correct?

24 A. Yes.

25 Q. And then if you go down to the distribution in kind, and it

HAPJSEA2

Husamudeen - cross

1 says PPVA agrees that, notwithstanding any provision in the
2 fund documents permitting distributions in kind to the
3 shareholders of PPVA, it will not make a distribution in kind
4 to the investor. Do you see that?

5 A. Yes.

6 Q. So that is the issue that you and I have called the PIK
7 issue, the payment in kind?

8 A. Okay.

9 Q. Correct?

10 And this is a letter agreement between, worked out
11 between your counsel and the fund that you're not going to get
12 distributions in kind, you're going to get --

13 MR. BELL: Objection.

14 THE COURT: Basis?

15 MR. BELL: Foundation.

16 THE COURT: Overruled. You may answer.

17 THE WITNESS: Can you repeat that.

18 BY MR. SHECHTMAN:

19 Q. This is a letter that says you're not going to get
20 distributions in kind, correct?

21 A. That's what it says.

22 Q. And that was a concern of the lawyers that we saw back on
23 February 14th?

24 A. Yes.

25 Q. The PIK problem? And this resolves that issue?

HAPJSEA2

Husamudeen - cross

1 A. Okay.

2 Q. So I'd also be correct that two days after this, after the
3 PIK issue had been resolved, the \$10 million went from COBA to
4 Platinum?

5 A. Okay.

6 Q. Agreed?

7 MR. SHECHTMAN: Let's take a look and see if we can
8 show you that and then we'll stop, Judge.

9 If you put up 307 again, Ms. Granquist, and go to that
10 second page, this is that Tommy Reynolds document, and if you
11 look at --

12 THE COURT: Hold on just a second. Hold on.

13 (Pause)

14 THE WITNESS: I am sorry?

15 THE COURT: Do the jurors have in front of them?

16 BY MR. SHECHTMAN:

17 Q. Look at the last line on those notes, and it says \$10
18 million transferred to Platinum Partners from Wright on
19 3-13-14. Do you see that?

20 A. Yes.

21 Q. And that is two days after the side letter that solved the
22 PIK problem?

23 MR. BELL: Objection.

24 THE COURT: I'll allow it. You may answer.

25 A. That is what it says in the letter.

HAPPSEA3

1 MR. SHECHTMAN: Judge, it's a good time for a break.

2 THE COURT: Let's do this, we're going to take our
3 break now, our 30-minute break -- make it a 35-minute break.
4 Come back at 12:05. In the interim, don't discuss this case
5 with anyone else. Don't let anyone discuss it with you. Don't
6 do any of the independent research regarding any of the issues
7 or parties. See you at 12:05.

8 (Jury not present)

9 THE COURT: Okay. Hold on a second. Let's do this.
10 Because of the concerns that the jurors expressed yesterday
11 about just bumping into people unnecessarily, let's give the
12 jurors a five-minute head start. That's why I wanted them to
13 come back at 12:05 instead of 12:00, and I'll ask counsel to
14 get back here and the parties to get here at 12:00 so we can
15 avoid any unnecessary bumping into the jurors. Just, if you
16 can, have a five-minute delay before you head out.

17 Anything else before we resume?

18 MR. BELL: No, your Honor.

19 MR. SHECHTMAN: No, your Honor.

20 (Luncheon recess)
21
22
23
24
25

HAPPSEA3

Husamudeen - Cross

A F T E R N O O N S E S S I O N

12:04 P.M.

(Trial resumed; jury not present)

THE COURT: All right. Go ahead, counsel.

MR. CAPONE: Your Honor, I just wanted to note briefly that we're going to change the order slightly. After this witness, we'll call Matt Balemian, that's because he's a pretty brief witness and he's from out of town; so we'll get him on and off.

THE COURT: Okay. Hopefully, the jurors will be here soon, and if the counsel and parties need to use the restroom, we'll go straight through until 2:30.

(Pause)

THE COURT: While we're waiting, can counsel just put something on the screen and make sure the witness' monitor is working. Let's just try it out to make sure that it works.

MR. SHECHTMAN: Is that on there?

THE COURT: It's not on my screen either yet.

MR. SHECHTMAN: Is yours working?

THE COURT: Mine is working. Counsel, it's working now. We'll try it again. Wait, it just faded out. Try it again. It's there. The witness is good, I'm good. Jurors here?

THE DEPUTY CLERK: Yes, Judge.

THE COURT: Bring them in. Let's go.

HAPPSEA3

Husamudeen - Cross

1 (Jurors present)

2 THE COURT: Okay. Please be seated. Welcome back.
3 Let's continue with the case on trial. Go ahead, counsel.

4 MR. SHECHTMAN: Ms. Granquist, if you could put back
5 up Government Exhibit 307.

6 THE COURT: Okay. It was working, but it's not
7 working. Can you hand him a copy again.

8 MS. LYNAUGH: Yes.

9 MR. SHECHTMAN: And the jurors can see this?

10 JURORS: Yes.

11 MR. SHECHTMAN: You can. So Ms. Granquist, if you
12 turn to the second page.

13 BY MR. SHECHTMAN:

14 Q. And this is, again, Mr. Reynolds' report. Go back to the
15 first page. I apologize. This is Mr. Reynolds report of
16 June 30th, 2014. And so, Mr. Husamudeen, if you'd look at it
17 with me very quickly. In June of 2014, the annuity fund has a
18 little more than 50 percent of its money in Wright; 13.7 in
19 Platinum, that's the hedge fund; 17.76 in Intercontinental Real
20 Estate, that's the real estate firm; and 16.81 in Advent. Does
21 that make sense?

22 A. Yes.

23 Q. And that comes after moving that \$10 million from Platinum
24 Partners to Wright in the beginning of March 2014, correct?

25 A. Yes.

HAPPSEA3

Husamudeen - Cross

1 MR. SHECHTMAN: Okay. Now, Ms. Granquist, if you'd
2 next put up Government Exhibit 311.

3 And I'm not sure this is in evidence but I know it can
4 come in without objection.

5 THE COURT: Okay. Any objection to 311?

6 MR. BELL: No objection.

7 THE COURT: Okay. It's in.

8 (Government's Exhibit 311 received in evidence)

9 BY MR. SHECHTMAN:

10 Q. And if you look at 311 with me --

11 THE COURT: Hold on. Let him get a copy of it first.

12 Q. This is the minutes of the July 29th, 2014, board meeting,
13 correct?

14 A. Yes.

15 Q. And this is a meeting that you were not at?

16 A. Yes.

17 Q. You were on vacation?

18 A. Yes.

19 Q. Right? But Mr. Seabrook, Mr. Maiello and Ms. Warner were
20 there, which is a quorum, correct?

21 A. Yes.

22 Q. And if you look at the bottom of the first page, you'll see
23 a sentence that says the consultant reported instructing Wright
24 to do so, but noted that they had not maximized their full
25 equity potential. And that consultant would be Mr. Reynolds,

HAPPSEA3

Husamudeen - Cross

1 correct?

2 A. Where is that?

3 Q. Right at the bottom of the first page, the sentence that
4 says: The consultant reported instructing Wright to do so.

5 A. Yes, that's in the record.

6 Q. But they had not maximized the full equity potential, and
7 what he instructed him, apparently, if you look at the sentence
8 before, is to increase their equity potential, less bonds, more
9 stocks less bonds?

10 A. Okay.

11 Q. But they hadn't done that?

12 A. Yes.

13 Q. Right? Now, if you go over to the next page, you'll see
14 that the various options were considered. Look at the middle
15 of the next page, where there's a one?

16 A. Yes, I see it.

17 Q. The options were to completely remove the equity
18 investments from Wright. It says Wright would no longer be
19 authorized to invest in stocks, to permit Wright to increase
20 its equity position and, if you continue, you will see that it
21 says, as a result of these concerns -- the last sentence before
22 it was indented there -- the trustees chose to phase Wright out
23 of equity over time and to table the discussion of what was to
24 be done with any remaining funds managed by Wright.

25 And then there is a resolution, and it says it was,

HAPPSEA3

Husamudeen - Cross

1 therefore, unanimously resolved that \$10 million would be taken
2 from the equity portion of the assets managed by Wright, with 5
3 million transferred to Advent convertible securities, and five
4 million transferred to Platinum Partners, the hedge fund. So
5 that is a unanimous vote of the board in your absence, to take
6 \$10 million more away from Wright, which was performing poorly,
7 and to give five to Advent and five to Platinum Partners,
8 correct?

9 A. That's what it say, yes.

10 Q. And which is to say, to split it between the two, not to
11 give all to Advent, not to give all to Platinum Partners,
12 correct?

13 A. Yes, that's what it -- yes, that's what it says.

14 Q. Okay. So when you returned from vacation, did you ask what
15 happened at that annuity board meeting?

16 A. No.

17 Q. And so you didn't learn until November that another \$5
18 million had gone to Platinum Partners?

19 A. As far as I recall.

20 Q. Did you say to them, did you do anything at that meeting?

21 A. It would usually be discussed at the next trustee's
22 meeting.

23 Q. So you were absent in that --

24 A. July.

25 Q. -- July meeting and you waited to talk about it until

HAPPSEA3

Husamudeen - Cross

1 November?

2 A. At the next meeting.

3 Q. Now, there are two separate entities, am I right,
4 Mr. Husamudeen; there is the annuity fund and that is the fund
5 that the city puts its money in there --

6 THE COURT: Just hold on just a second. We'll see if
7 we can get this monitor fixed quickly.

8 (Pause)

9 Thank you. It's working now.

10 BY MR. SHECHTMAN:

11 Q. Two separate entities, there is the annuity fund and that
12 is where the city puts its money, and when an officer retires,
13 that money is available to him or her, if they want it?

14 A. Yes.

15 Q. And it's not -- as you said, it's not a pension. It's a
16 supplement to a pension?

17 A. Yes.

18 Q. And then the second entity is COBA itself, correct?

19 A. Yes.

20 Q. And that is the union?

21 A. Yes.

22 Q. And the union also has money because it collects dues from
23 its members?

24 A. Yes.

25 Q. Now, you learned, you said, in June of 2014 at the Puerto

HAPPSEA3

Husamudeen - Cross

1 Rican Day Parade that \$5 million of COBA's money had been
2 removed to Platinum Partners; is that right?

3 A. Yes.

4 Q. And that Puerto Rican Day Parade is an annual June event?

5 A. Yes.

6 Q. Now, I want to talk a little bit about COBA for a second.

7 MR. SHECHTMAN: And I'd ask Ms. Granquist to bring
8 Government Exhibit 110 up, and this is a government exhibit.

9 Again, your Honor, I think there's no objection to my
10 offering it into evidence.

11 MR. BELL: None.

12 THE COURT: Okay. 110 is in.

13 (Government's Exhibit 110 received in evidence)

14 THE COURT: Do the jurors have it in front of them?

15 JURORS: No.

16 THE COURT: Okay.

17 MR. SHECHTMAN: Mr. Husamudeen, can you see that?

18 THE COURT: Hold on. Make sure the jurors have it.

19 THE WITNESS: Yes.

20 MR. SHECHTMAN: I'm sorry.

21 THE COURT: The jurors have it, the witness has it.

22 Go ahead, counsel.

23 BY MR. SHECHTMAN:

24 Q. This is an exhibit prepared by the government, and it shows
25 two COBA accounts, an 8301 account and a 3241 account. Do you

HAPPSEA3

Husamudeen - Cross

1 see those two accounts?

2 A. Yes.

3 Q. And when you were treasurer, when you were vice president,
4 there were two accounts, there was a checking account and there
5 was a second account?

6 A. When I was treasurer? Yes, we had checking accounts.

7 Q. And you had a money market account?

8 A. Money market, yes. We had money market certificate of
9 deposit accounts, yes.

10 Q. So am I right that 8301 is the checking account?

11 A. I haven't been in the treasurer's office for like five
12 years; so if you say it is, then I guess it is.

13 Q. Probably shouldn't do it that way, but I think it is.

14 Let's look at 3241 for a second.

15 MR. SHECHTMAN: And, Ms. Granquist, if you'd put up on
16 the screen what is a page out of that account.

17 And, Judge, again, this is from Government
18 Exhibit 102.

19 MR. BELL: No objection.

20 THE COURT: Okay. 102 is in.

21 (Government's Exhibit 102 received in evidence)

22 BY MR. SHECHTMAN:

23 Q. So if you'd look at that account with me?

24 THE COURT: Hold on. Do the jurors have it?

25 JURORS: Yes.

HAPPSEA3

Husamudeen - Cross

1 THE COURT: Okay. Go ahead.

2 BY MR. SHECHTMAN:

3 Q. And this is the second of those accounts. This is the 3241
4 account, and you will see that it has a daily balance summary.
5 It shows right down towards the bottom, Ms. Granquist, it shows
6 \$6.8 million, and then it has interest paid this year \$70,000;
7 do you see that?

8 A. Yes.

9 Q. Now, let's go back briefly to that chart on 110, and if you
10 look at that account, that money market account that draws
11 interest, you'll see that for most of 2012, 2013 COBA had about
12 \$6 million in that money market account. Do you see that?

13 A. Yes.

14 Q. And that \$6 million was earning -- let's see. If we take
15 \$6 million, and if we took one percent of it, let's take \$6.7
16 million, that is what is in there at the end of 2013, right?
17 In November of 2013, 6.7, \$6.8 million, and you took one
18 percent, the interest rate you would earn would be 67, \$68,000.
19 That would be one percent. Are you with me?

20 A. I'm with you.

21 Q. Okay. And that makes sense. So, Ms. Granquist, would you
22 go back to 102. Right.

23 You had \$6.8 million in there, and you earned 70,000;
24 so the interest rate on that money market account was about one
25 percent; would that be fair?

HAPPSEA3

Husamudeen - Cross

1 A. That would be fair.

2 Q. Now, if the interest rate were ten percent, do the math
3 together, it's pretty easy. If it was ten percent, it would be
4 \$670,000?

5 A. Okay.

6 Q. Five percent would be half of that, \$335,000, correct?

7 A. Okay.

8 Q. So by having \$6 million in that account at one percent, you
9 weren't taking very much risk, but you were leaving a lot of
10 money on the table, that interest rate was low?

11 MR. BELL: Objection.

12 THE COURT: Overruled.

13 A. Okay.

14 Q. And that was money that was there in 2011, '12, '13 and
15 '14; that was in that money market account, correct?

16 A. Correct.

17 Q. At one percent?

18 A. Okay.

19 Q. And I take it that that -- the checking account was used to
20 write checks out of?

21 A. Yes.

22 Q. For daily business, daily activity?

23 A. Yes.

24 Q. And the money market account was, in effect, a rainy day
25 account? You were saving it for a rainy day? Saving it for

HAPPSEA3

Husamudeen - Cross

1 when you needed it?

2 A. Okay. It's called a reserve, but okay, a rainy day
3 account.

4 Q. And it would be fair to say, if you look down that column
5 on that exhibit -- Ms. Granquist, could you put 110 back up --
6 it hadn't rained in a while, which is to say, you left a lot of
7 money just sitting there, correct, in the reserve account?

8 A. Okay.

9 Q. Now, you were asked yesterday about there coming a time
10 when COBA added five additional trustees; do you remember that?

11 A. Yes.

12 Q. And I think you said you weren't sure, but you thought it
13 might be 2010?

14 A. Yes, I believe that's what I said, 2010 or 2013 or
15 something.

16 MR. SHECHTMAN: There is a stipulation -- I think
17 that's probably right. There's a stipulation with the
18 government that those five trustees became effective in
19 January 2013.

20 MR. BELL: So stipulated, your Honor.

21 THE COURT: Okay.

22 BY MR. SHECHTMAN:

23 Q. So in January of 2013, the constitution was amended and
24 five additional trustees were added, correct?

25 A. Yes.

HAPPSEA3

Husamudeen - Cross

1 Q. And they were borough trustees?

2 A. Yeah, they're called borough trustees, yes.

3 Q. So there wasn't really one for each borough. You combined
4 Staten Island and Brooklyn, and you had a citywide trustee?

5 A. Yes.

6 Q. So that's four plus one is five?

7 A. Yes.

8 Q. And those borough trustees were members of the executive
9 board?

10 A. Yes, they are members of the executive board.

11 Q. And they were available 24/7 for the members?

12 A. Yes, just like the other board members.

13 Q. Just like the other board members. Now, would it be fair
14 to say that nothing in life is free, those five additional
15 trustees actually cost COBA money?

16 A. Yes.

17 Q. Because what you had to do was pay the city to release them
18 from their Rikers Island duties, or whatever jail they were
19 working at?

20 A. Yes.

21 Q. And those costs were not trivial because you're basically
22 paying the city for their salary?

23 A. Yes.

24 Q. And you also had a car for each of them; so that they
25 really could be available 24/7?

HAPPSEA3

Husamudeen - Cross

1 A. Yes.

2 Q. And so that money, that additional cost in 2013, five
3 trustees, could be as much as \$500,000, \$400,000; it was a
4 significant sum?

5 A. Yes.

6 Q. And I think I'm right, at the same time, you added four
7 rapid response delegates?

8 A. Yes.

9 Q. And they cost -- I assume they had cars as well?

10 A. The rapid response delegates, and there were maybe, at the
11 time, two or three cars that they shared when they were on
12 call.

13 Q. And they had a modest compensation, 500 to \$1,000 extra a
14 month?

15 A. Very modest.

16 Q. But that also came out of COBA's money?

17 A. Yes.

18 Q. So 2013 you took on considerably new expenses that you
19 hadn't had before for the five borough trustees?

20 A. The rapid response delegates, I'm sorry, they existed
21 before trustees even were appointed.

22 Q. But did you have --

23 A. They were there before. They weren't new. They didn't
24 come on with the trustees. They were already there. We were
25 already using --

HAPPSEA3

Husamudeen - Cross

1 Q. Were you already paying them?

2 A. Yes, they were being paid.

3 Q. Okay. So the only real expense was for the five new
4 trustees?

5 A. Pretty much.

6 Q. Okay. It was close to a half million dollars?

7 A. For the new trustees?

8 Q. Yes. You had to pay their salary, they had a car?

9 A. Yes, pretty much.

10 Q. Now, I think it's your testimony that Mr. Seabrook took
11 \$5 million out of that money-market fund, where it was getting
12 one percent, and without a vote of the board, he transferred it
13 to Platinum Partners, correct?

14 A. Yes.

15 Q. Now, Mr. Maiello did sign off on it because he had to?

16 A. Yes.

17 Q. And I don't mean he had to in the sense that anybody forced
18 him to, but you couldn't have a check from COBA without two
19 signatures?

20 A. Yes.

21 Q. And so he knew about it, he knew what it was for and he
22 signed it?

23 MR. BELL: Objection.

24 THE COURT: What's the objection?

25 Q. He signed it?

HAPPSEA3

Husamudeen - Cross

1 A. As far as I know, he signed it, yes.

2 Q. Now, it came time, at the Puerto Rican Day Parade, that you
3 learned about it, and you were upset because you thought that
4 the board should have approved it?

5 A. Yes.

6 Q. Now, in the past, I take it that you and Mr. Seabrook had
7 moved money between the checking account and the money market
8 account without the board approval when you needed it?

9 A. It's a big difference --

10 Q. Just yes or no.

11 THE COURT: If you can answer the question yes or no.

12 A. Yes.

13 Q. But it's a big difference, in your view, between moving it
14 between the checking account and the money market account and
15 taking \$5 million and putting it in a hedge fund?

16 A. Yes.

17 Q. And so you confronted Mr. Seabrook, and you said, what the
18 F is your problem?

19 A. Pretty much.

20 Q. You weren't afraid to confront him?

21 A. Say that again?

22 Q. You weren't afraid to confront him?

23 A. I'm sorry?

24 Q. You weren't afraid to confront him?

25 A. No.

HAPPSEA3

Husamudeen - Cross

1 Q. I mean, you'd known each other for at least 22 years, and
2 if he F'd up, you'd tell him, and if you F'd up, he'd tell you?

3 A. Yes.

4 Q. And you told him, and his response was, it's making money?

5 A. Yes.

6 Q. And it was making money because it had gone from that one
7 percent account to Platinum Partners, which was bringing in
8 about ten percent?

9 MR. BELL: Objection.

10 THE COURT: Overruled.

11 A. I can't say whether it was making money or not. At the
12 time, he said it was making money. That was it.

13 Q. Well, look, that was in May or June, right?

14 A. June.

15 Q. In August, you put \$5 million more in the Platinum
16 Partners. You wouldn't have done that if it wasn't making
17 money --

18 A. I wasn't --

19 MR. BELL: Objection.

20 THE COURT: Overruled.

21 A. I wasn't in that meeting to put in an additional five
22 million, but if I -- the investment was -- the five million was
23 supposedly moved in June. So if the Puerto Rican Day Parade is
24 in June, and we just -- and he just moved the five million, how
25 is it making money when it didn't have enough time to land? So

HAPPSEA3

Husamudeen - Cross

1 I can't say that it was making money. He said it was making
2 money.

3 Q. And you haven't seen the July -- you didn't see the July
4 minutes until November?

5 A. On the annuity side.

6 Q. On the annuity side?

7 A. Yes.

8 Q. Same Platinum Partners, though?

9 A. Yes.

10 Q. Now, did you -- you barked at him, so to speak, at the
11 Puerto Rican Day Parade. Was there a vote of the board to move
12 the money back?

13 A. No.

14 Q. Now, that board is not made up of weaklings, would I be
15 right about that?

16 MR. BELL: Objection.

17 THE COURT: Overruled. Is the board made up of
18 weaklings?

19 THE WITNESS: The board is made up of men and women
20 who signed on and took an election to do a job; so weak link,
21 that's suggestive --

22 Q. All of whom, like you, had worked in the corrections
23 system; these are strong people?

24 A. Yes.

25 Q. Joe Brasco, Karen Bellfield, Al Frain, Danny Bosco, all of

HAPPSEA3

Husamudeen - Cross

1 those were men and women who could speak their mind?

2 A. Yes.

3 Q. And none of them spoke their mind at the next meeting and
4 said, bring this money back?

5 A. No.

6 Q. Now, one of your concerns, I take it, was you were taking
7 \$5 million out of a money market firm, which is highly liquid,
8 and it was being transferred to a hedge fund, which was less
9 liquid?

10 A. Okay.

11 Q. And this was a rainy day fund, and it hadn't rained in the
12 past, but it could rain, and so you'd like to have liquidity;
13 would I be correct?

14 A. Any monies not used goes into a reserve.

15 Q. Well, that's right, but the question is, what interest rate
16 are you getting? And you were getting one percent and now
17 you're getting more, right? So but you had a concern that it
18 wasn't as liquid?

19 A. I had a concern that he didn't consult with the board on
20 such a large investment or use of the union money.

21 Q. And at the next --

22 A. That was my concern.

23 Q. And at the next meeting, with a group of strong,
24 independent people who could speak their mind, nobody said
25 we've got to reverse this?

HAPPSEA3

Husamudeen - Cross

1 A. I expressed my concern to Mr. Seabrook, which is what I
2 wanted to do, which is what I needed to do, which is what I
3 did.

4 Q. But now answer my question. At the next meeting, nobody
5 said reverse it?

6 A. Not that I recall.

7 Q. Now, let me show you what is Government Exhibit 316, if you
8 would?

9 MR. SHECHTMAN: And, Judge, again, I think there's
10 agreement to admit this as a government exhibit.

11 MR. BELL: There is, your Honor.

12 THE COURT: Okay. 316 is in.

13 (Government's Exhibit 316 received in evidence)

14 THE COURT: Do the jurors have it in front of them?
15 Wait a second.

16 BY MR. SHECHTMAN:

17 Q. And so this is --

18 THE COURT: Wait, wait, wait, wait. Hold on.

19 MR. SHECHTMAN: I'm sorry. Totally my apologies, your
20 Honor.

21 THE COURT: Make sure the jurors have it. Go ahead,
22 counsel.

23 MR. SHECHTMAN: We're going to back up, and what I
24 want to put up on the screen is Defendant's Exhibit G. My
25 apologies, Judge.

HAPPSEA3

Husamudeen - Cross

1 THE COURT: Is that already in evidence?

2 MR. SHECHTMAN: No.

3 THE COURT: Okay.

4 MR. SHECHTMAN: And so we won't show it to the jury
5 until we do. And this is also, I think, is part of the
6 government exhibit, but --

7 THE COURT: Is there any objection to Defendant's G?

8 MR. BELL: There isn't.

9 MR. SHECHTMAN: Okay.

10 THE COURT: Defendant's G is in evidence. Go ahead
11 and publish it. Hold on a second. Make sure the jurors have
12 it.

13 (Defendant's Exhibit G received in evidence)

14 BY MR. SHECHTMAN:

15 Q. So this --

16 THE COURT: Hold on. Do the jurors have it?

17 JURORS: Yes.

18 THE COURT: Now we have it. Go ahead, counsel.

19 BY MR. SHECHTMAN:

20 Q. So this is June 2nd, 2014, that is shortly before the
21 Puerto Rican Day Parade; would I be correct?

22 A. Yes, sir.

23 Q. And this is a letter between COBA, not the annuity fund,
24 but COBA and Platinum Partners, the PPVA fund?

25 A. I've never seen it. It wasn't given to me, but I assume

HAPPSEA3

Husamudeen - Cross

1 that it is, yes.

2 Q. And if you look at the first paragraph, No. 1, this is
3 another one of these side letters that says, no distributions
4 in kind. This is a PIK issue. We don't want oil wells; we
5 want cash?

6 A. Okay.

7 Q. That your lawyers negotiated?

8 A. Yes.

9 Q. And then if you look at the second bullet point, this says,
10 for as long as investor maintains a balance of at least five
11 million -- and that's what had been invested -- then upon three
12 days' notice, you can redeem up to a million dollars. Do you
13 see that?

14 A. Yes.

15 Q. So it's a one-time, you can pull one million dollars on one
16 three days. And this also was negotiated by your lawyers?

17 A. Okay.

18 Q. So that if there's a concern about liquidity, you can pull
19 a million dollars on three days' notice, correct, under this
20 agreement?

21 A. Okay.

22 Q. Now, if you look at the back, this is signed by
23 Mr. Seabrook, and would I be correct in saying it was an
24 agreement prepared for Mr. Seabrook's signature, it was
25 prepared by the Koehler firm?

HAPPSEA3

Husamudeen - Cross

1 MR. BELL: Objection.

2 THE COURT: Overruled. I'll allow it.

3 A. Okay. I mean, it does -- the document looked like it was
4 prepared by someone, I don't know.

5 Q. Those were your lawyers for all purposes?

6 A. I don't see their name anywhere on this document, but I
7 have to go with you, yes.

8 Q. And so that is a side letter with a liquidity provision,
9 correct?

10 And now let me just sort of switch gears for a second.
11 The fact that the \$5 million was taken out of the money-market
12 fund, which had the one percent interest, put into Platinum
13 Partners was not hidden from the members?

14 A. No, I'm sure I'm not the only one Mike Maiello told about
15 it.

16 Q. Now, let's look at Government Exhibit 304.

17 MR. SHECHTMAN: Ms. Granquist, if you will.

18 And again, your Honor, I think there's no objection to
19 this coming in.

20 MR. BELL: None.

21 THE COURT: It's in. Publish it. Hold on for a
22 second.

23 (Government's Exhibit 304 received in evidence)

24 Q. And this is the --

25 THE COURT: Hold on. Let's just make sure the jurors

HAPPSEA3

Husamudeen - Cross

1 have it. Do you have it? Okay. Go ahead, counsel.

2 BY MR. SHECHTMAN:

3 Q. This is the COBA financial statements for 2014, 2013.

4 And, Ms. Granquist, if you could turn to Page 7, I
5 believe.

6 And if you look at Page 7, it's a list of assets, and
7 you'll see it says, hedge fund, 5,047,000; so that's 5 million
8 plus the interest it's getting on?

9 A. Yes.

10 Q. Now, there was some discussion about the power Mr. Seabrook
11 had to send people back to Rikers Island or send people back to
12 a city jail?

13 A. Mmm, hmm.

14 Q. That comes with being president, correct?

15 A. Yes, it does.

16 Q. You have that power?

17 A. Yes.

18 Q. And there was mention of a Mr. Valentin who was brought up
19 on charges; do you recall that?

20 A. Yes.

21 Q. I don't know if he was sent back, or he was removed from
22 the board, but disciplinary action was taken against him?

23 A. Yes.

24 Q. And that wasn't just Mr. Seabrook acting on his own, the
25 board voted unanimously to approve that?

HAPPSEA3

Husamudeen - Cross

1 A. Yes.

2 Q. And two last questions or -- never trust a lawyer who says
3 two last questions, but I'll try to be quick. You are paid by
4 the city?

5 A. Yes.

6 Q. And you also collect a second check from the union?

7 A. Yes.

8 Q. And together, that means for being the acting president,
9 all in, it's about, what, \$250,000?

10 A. Last year the union paid me \$140,000.

11 Q. And the city?

12 A. About 95.

13 Q. So 230?

14 A. Roughly.

15 Q. And that's the same that Mr. Seabrook received when he was
16 president?

17 A. Well, he made a little bit more than I did.

18 Q. He was president, and you're acting president?

19 A. Well, when I became acting president, I decided to take a
20 pay cut.

21 Q. Okay. But a modest one?

22 A. 37 percent.

23 Q. So he was making 37 percent more than you?

24 A. Yes.

25 Q. From the union?

HAPPSEA3

Husamudeen - Cross

1 A. Yes.

2 Q. Okay. And so you took a pay cut to bring it down?

3 A. Yes.

4 Q. And his salary was approved by the union?

5 A. Yes.

6 Q. And yours was, and people were pleased that you took the
7 pay cut?

8 A. I assume they are. I didn't make it public.

9 Q. Okay. And when you talked about Mr. Seabrook, what you
10 said was -- I think you were asked a question something like,
11 is there one word that captures him, or how would you capture
12 him, and you said "effective"?

13 A. Yes, I did.

14 Q. And he was?

15 A. Yes, he was.

16 Q. And the Seabrook team. And that is, Mr. Seabrook and you
17 for 20 years, and others, were among the most effective, if not
18 the most effective, labor leaders in this city?

19 A. It was said.

20 Q. Now, you were asked yesterday if had you known that Norman
21 Seabrook took a bribe to put money into Platinum Partners,
22 would you have approved it, and you said no, correct?

23 A. Yes.

24 Q. And that's because you have a fiduciary duty to make sure
25 that money is invested properly because it's the members'

HAPPSEA3

Husamudeen - Cross

1 money?

2 A. Yes.

3 Q. And as you sit here today, I'd also be correct that you
4 have no knowledge, no opinion one way or the other, as to
5 whether Mr. Seabrook took a bribe?

6 A. No.

7 Q. And the reason we're here in this courtroom is that that's
8 for this jury to decide?

9 MR. BELL: Objection.

10 THE COURT: Sustained.

11 MR. SHECHTMAN: No further questions.

12 THE COURT: Okay.

13 MR. BELL: Redirect?

14 THE COURT: Any questions from co-counsel?

15 MR. MAZUREK: No, your Honor.

16 THE COURT: Okay. Any redirect?

17 MR. BELL: Yes, your Honor.

18 THE COURT: Okay.

19 MR. BELL: Thank you, your Honor.

20 MR. SHECHTMAN: Judge, Mr. Bell has given me a minute
21 and a half to let me get seated and organized.

22 THE COURT: To do what?

23 MR. SHECHTMAN: To just sit down and get organized.

24 MR. BELL: I'm ready to go when everyone is. I just
25 want to make sure Mr. Shechtman is fine.

HAPPSEA3

Husamudeen - Redirect

1 MR. SHECHTMAN: Just one minute, your Honor.

2 MR. BELL: May I proceed, your Honor?

3 THE COURT: Yes.

4 REDIRECT EXAMINATION

5 BY MR. BELL:

6 Q. Good afternoon, Mr. Husamudeen.

7 A. Good afternoon.

8 Q. Ms. Bustillo, would it be possible for you to put up
9 Government Exhibit 110 once more.

10 Mr. Husamudeen, a few minutes ago you were asked a
11 number of questions by Mr. Shechtman about this chart. Do you
12 recall seeing this chart a few minutes ago?

13 A. Yes.

14 Q. And this chart tracks a couple of the union's accounts from
15 2011 to 2015; is that fair to say?

16 A. Yes.

17 Q. And so what I'll ask you to do -- Ms. Bustillo, these
18 numbers are incredibly tiny, if you can try to focus in
19 beginning on the line for April 30th, 2014, it's about
20 two-thirds of the way down. Can you take that about -- can you
21 do about eight lines, as close to the fourth and starting at
22 that point. Thank you very much.

23 And so what you see here -- I want to focus your
24 attention, Mr. Husamudeen, on the line beginning May 31st,
25 2014, the line immediately below it June 30th, 2014; do you see

HAPPSEA3

Husamudeen - Redirect

1 that?

2 A. Yes.

3 Q. And we've highlighted it for you.

4 And can we highlight the same two rows in the third
5 column. Thank you, Ms. Bustillo.

6 And so there's a change from May 31st to June 30th of
7 about \$5.3 million to about .3 million dollars, right?

8 A. Yes.

9 Q. And that reflects the movement of about \$5 million of that
10 account into Platinum Partners, to your understanding, and out
11 of that COBA account, doesn't it?

12 A. Yes.

13 Q. And that's the same money movement that was discussed at
14 the Puerto Rican Day Parade; do you recall that?

15 A. Yes.

16 Q. Now, Mr. Shechtman asked you a number of questions about
17 the reserve, and he -- I think you observed that there had not
18 been a rainy day in a while, meaning that there had not been a
19 reason to draw from the rainy day fund for the reserve; do you
20 recall that?

21 A. Yes.

22 Q. Now, does the importance of the reserve depend on whether
23 you used it lately?

24 A. No, it doesn't.

25 Q. Why is that?

1 A. There are months when the monies, the dues, the monies
2 that's coming in, is less than the monies that's going out, and
3 when that happens, we have to draw from the reserves.

4 Q. What sorts of reasons could lead to a situation like that?

5 A. Unexpected expenses, unexpected legal fees, a lot of
6 different reasons, you know, that would involve having to have
7 to take from the reserves.

8 Q. Is it fair to say that some of these reasons are reasons
9 outside of the union's immediate control?

10 A. Yes.

11 Q. That's the reason why it's called a rainy day fund, isn't
12 it, because you can't control the rain?

13 MR. SHECHTMAN: Judge, I don't know that your Honor
14 does this, allow leading questions on redirect?

15 THE COURT: I'll allow some of this, yes. That's
16 overruled. You may answer.

17 A. I'm sorry.

18 MR. BELL: You know what, I'll withdraw the question.

19 Why don't we take that down, Ms. Bustillo, and what I
20 will try to do, with an adventurous spirit and your help, is
21 switch over to the ELMO here.

22 Q. All right. Now, you were shown this exhibit earlier as
23 Defense Exhibit MH301. You were shown that by Mr. Shechtman,
24 weren't you?

25 A. Yes.

HAPPSEA3

Husamudeen - Redirect

1 Q. This is a letter from an individual named Gilad -- an
2 e-mail, rather, from an individual named Gilad Kalter to Mark
3 Nordlicht, David Ottonsasser, Uri Landesman, Andrew Kaplan and
4 Murray Huberfeld, along with some other folks who are copied,
5 from February 18th, 2014, subject line, COBA, correct?

6 A. Yes.

7 Q. Now, you weren't the recipient of this e-mail, were you?

8 A. No.

9 Q. Now, the e-mail says the ten million is set to come in top
10 of PPVA. Russ working on a side letter addressing PIK. They
11 dropped the first three points.

12 Do you recall being asked a number of questions about
13 the first three points being the concerns that had been raised
14 in the letter on your screen earlier?

15 A. Yes.

16 Q. Now, around February of 2014, you did not know -- or
17 withdrawn.

18 Around February of 2014, did you know that COBA had
19 dropped three of its concerns?

20 A. No.

21 Q. Did you know what the three concerns were?

22 A. No.

23 Q. Reference is made here to PIK, did you know what PIK was?

24 A. No.

25 Q. With respect to the concerns I mentioned a moment ago, was

HAPPSEA3

Husamudeen - Redirect

1 there ever a vote, that you were aware of, among the trustees
2 to drop certain concerns?

3 A. No.

4 MR. BELL: Why don't we take that down, and I'll
5 switch back to regular screen, Ms. Bustillo. Thank you.

6 While we're adjusting, your Honor, just to sort of
7 belts and suspenders the situation here, to the extent that
8 they're not in already in, the government offers Government
9 302, 308, and 313 through 317 into evidence.

10 THE COURT: Any objection to those?

11 MR. SHECHTMAN: None, your Honor.

12 THE COURT: Okay. Those are all in.

13 MR. MAZUREK: No, not from me either, your Honor.

14 (Government's Exhibits 302, 308, 313 through 317
15 received in evidence)

16 MR. BELL: Thank you, your Honor.

17 BY MR. BELL:

18 Q. And so the concerns that were mentioned were --

19 Ms. Bustillo, can we post Government Exhibit 1027, please. Can
20 we actually go to -- well, let's pause for just a moment.

21 Mr. Shechtman asked you a number of questions about a
22 letter attached to this e-mail, a February 5th, 2014, e-mail
23 between some of those same people. Why don't we go to the next
24 page, which is the start of the letter?

25 THE COURT: Let me just check. Do the jurors have

1 that in front of them?

2 JURORS: Yes.

3 THE COURT: Okay. Go ahead.

4 MR. BELL: Thank you, your Honor.

5 Q. Do you recall being asked a number of questions about this
6 letter earlier in your testimony?

7 A. Yes.

8 Q. And so Mr. Shechtman asked you a number of questions
9 concerning the issues that were discussed in this letter. To
10 be clear, what familiarity, if any, did you have with this
11 letter prior to -- rather, at the time that the investment was
12 being discussed?

13 A. None.

14 Q. What familiarity did you have with the -- I want to make
15 sure I ask this correctly. What familiarity did you have with
16 the issues discussed in this letter prior to -- or, rather, at
17 the time that the investment was being considered?

18 A. None.

19 Q. So let's go to Page 2. So you were asked a number of
20 questions about the four concerns on this letter, which I think
21 Mr. Shechtman appropriately summarized as the investment
22 manager advising that it's a fiduciary, conflicts of interest,
23 the request that the fund acknowledge that it can bear the risk
24 of losing the whole investment, and liquidity concerns. Do you
25 recall being shown that during your cross?

HAPPSEA3

Husamudeen - Redirect

1 A. Yes.

2 Q. And so were you aware of any of those concerns at the time,
3 during February of 2014, at all?

4 A. No.

5 Q. Now, I would like for us to put up, although I realize I
6 may have to rely on the ELMO again, what's in from earlier as
7 Defense Exhibit C. I actually may have a copy of that.

8 So, Mr. Husamudeen, you were shown this resolution
9 earlier today. I believe that the copy you were shown was
10 marked as Defense Exhibit C. Do you remember seeing this
11 resolution?

12 A. Yes.

13 Q. And I believe that you testified earlier that that was your
14 signature on the second page?

15 A. Yes.

16 Q. Now, do you recall actually signing this resolution?

17 A. Yes.

18 Q. Do you recall when you signed the resolution?

19 A. No.

20 Q. Do you recall whether it was -- do you recall where it was
21 in the sequence of events that we have been describing
22 regarding the investments in Platinum Partners?

23 A. It would have had to have been after the trustees' meeting
24 on January 13th. We usually -- when we make decisions, we sign
25 resolutions afterwards; so it would have had to have been after

HAPPSEA3

Husamudeen - Redirect

1 the January 13th meeting.

2 Q. And so sometime after January 13th, 2014?

3 A. Yes.

4 Q. But you're not sure when after January 13th, 2014?

5 A. No.

6 Q. Now, ordinarily, Mr. Husamudeen, are these resolutions
7 dated, in your experience?

8 A. You know what, no, they're usually just like this.

9 Q. Which is to say a handwritten date at the top?

10 A. No, no, there's no handwritten. Where it says, at 1100
11 hours, January 13th, it basically -- most of the resolutions
12 have the date that we made the resolution or the decision. But
13 looking at it, this pretty much resembles the resolutions that
14 we normally sign.

15 Q. So let me ask you specifically, sir, is there usually
16 handwriting at the top containing a date and an account where
17 this fit in the timetable?

18 A. There's never handwriting at the top.

19 Q. So you said that the resolution -- you testified moments
20 ago that this would have had to have been after the
21 presentation from Platinum Partners?

22 A. Yes.

23 Q. Is it possible that this was signed during this meeting or
24 sometime after that day?

25 A. No, it would have had to have been after that day.

HAPPSEA3

Husamudeen - Redirect

1 Q. And why is that?

2 A. It usually is. Actually, usually the resolutions come in
3 at the next trustees' meeting, or there are times when the
4 attorneys would send them over shortly after we've had a
5 meeting and after we've made different resolutions or
6 declarations.

7 Q. And you testified that the next trustees' meeting was in
8 July of 2014. Was that your testimony from before?

9 A. Yes, it was July 29th or something like that.

10 Q. And so would you have signed this at the July --

11 MR. SHECHTMAN: Judge?

12 THE COURT: Hold on.

13 MR. SHECHTMAN: Objection.

14 THE COURT: Let him finish the question. Go ahead.

15 Q. Would you have signed this at the July 2014 trustees'
16 meeting?

17 A. If not before then, yes.

18 THE COURT: Hold on, hold on.

19 MR. SHECHTMAN: I'll withdraw the objection. He can
20 answer.

21 THE COURT: Hold on. Please rephrase the question.

22 MR. SHECHTMAN: I withdraw the objection.

23 THE COURT: Well, I think we were talking over each
24 other. Just restate the question, please; so we can get a
25 clear answer from the question. Go ahead.

HAPPSEA3

Husamudeen - Redirect

1 Q. I'll ask a different question, in any event. Were you at
2 the July 2014 trustees' meeting?

3 A. No, sir.

4 Q. Now, you mentioned that although you do -- although you
5 don't recall when you signed this, you do recall signing it?

6 A. Yes.

7 Q. At the time that you signed this resolution, were you aware
8 of the letter that I showed you just a moment ago, Government
9 Exhibit 1027, the one that listed the four objections or the
10 four concerns?

11 A. As I said over and over, I wasn't aware of any of those
12 e-mails, letters. I wasn't even aware of the attorneys'
13 concerns concerning the investment. No, I wasn't aware.

14 MR. BELL: One moment, please. Just one moment.

15 (Pause)

16 Q. And specifically, Mr. Husamudeen, did Mr. Seabrook ever
17 share those concerns with you?

18 A. No.

19 Q. Did Mr. Seabrook ever share any of those documents with
20 you?

21 A. No.

22 Q. Let's put up -- let's not. We'll come back to those
23 documents very briefly in a bit. I want to touch on this.

24 Mr. Husamudeen, you were asked a number of questions about what
25 we'll call the middle \$5 million, that is the \$5 million that

HAPPSEA3

Husamudeen - Redirect

1 you learned about at the Puerto Rican Day Parade, and you were
2 asked about whether you raised this at a subsequent board
3 meeting; do you recall that?

4 A. Yes.

5 Q. Do you recall anyone raising the issue of the \$5 million at
6 subsequent board meetings?

7 A. Yes.

8 Q. Who did?

9 A. Former board member William Valentin.

10 Q. And what was the nature of what Mr. Valentin raised about
11 the \$5 million?

12 A. I don't recall exactly what it was. I do recall that we --
13 it wasn't addressed because at that time, I believe
14 Mr. Valentin had already filed a lawsuit; so we had no
15 discussion on the investment, but it was brought up by him.

16 (Continued on next page)

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HAPPSEA3

Husamudeen - Redirect

HAPJSEA4

Husamudeen - redirect

Q. Just to be clear, Mr. Valentin was present for a board meeting at which he raised the issue of \$5 million?

A. I am not sure whether he was present or whether it was submitted in writing, but I do recall him bringing it up.

Q. So in some form -- I want to make sure I understanding your testimony correctly -- in some form Mr. Valentin raised the \$5 million before the board, but you're not sure in what form. Is that a fair characterization?

A. Yes.

Q. I want to go back to 10-27 once again. Let's go to the first page -- sorry -- the second page. The first page is the actual letter portion. I want to go to the very next page, actually. Can you highlight the first full sentence which says the annuity fund, however, is not adverse to being a trendsetter. Can we just highlight it on the regular pages.

Can we highlight the last two lines of Paragraph 1 where it says this is not acceptable to the annuity fund, as each of these entities and individuals must acknowledge their fiduciary obligations to the annuity fund.

Can we also highlight the first sentence of Section 2, where it says the OM is quite blunt about conflicts of interest.

Can we also highlight Section 3 beginning with the annuity fund cannot acknowledge as required by the SA that it

HAPPSEA3

Husamudeen - Redirect

1 has the financial ability to bear the economic risk of losing
2 its entire investment.

3 Now, Mr. Husamudeen, when was the very first time that
4 you saw this letter?

5 A. I believe just recently. I didn't see it when it was
6 written. I am not sure.

7 Q. When you say "just recently," are we talking about this
8 year? Are you talking about this month?

9 A. I am talking about this year. I am not sure whether it was
10 with my attorney, with your office, but I never saw it prior.
11 Maybe I have seen it within the last couple of months of being
12 subpoenaed.

13 Q. What was your reaction when you saw this letter for the
14 very first time?

15 A. My reaction for this letter is the same as it is for the
16 other emails and the other letters. I never saw it. I am a
17 trustee. No one ever said to me that they had these concerns.

18 These concerns were never expressed to me, so I get a
19 little agitated when I see this letter and any of the other
20 letters because --

21 Q. We were going in the same direction. Why were you
22 agitated?

23 A. Because if I had been exposed to these letters and these
24 emails, I would never have voted to invest a dime of the
25 union's money in Platinum Partners.

HAPJSEA4

Husamudeen - recross

1 MR. BELL: No further questions.

2 RECROSS EXAMINATION

3 BY MR. SHECHTMAN:

4 Q. Ms. Granquist, would you put up 110 back up on the screen.

5 (Pause) This is 110.

6 THE COURT: Do the jurors have that?

7 BY MR. SHECHTMAN:

8 Q. This is Government Exhibit 110. You have looked at it
9 before. It is the two funds, right? Not up there?

10 A. No.

11 (Pause)

12 THE COURT: It is on the screen now.

13 BY MR. SHECHTMAN:

14 Q. Do you have it? It is back on the screen now?

15 A. Yes.

16 Q. We looked at this before and you were asked about this on
17 redirect. These are the two funds, and I would be correct that
18 for most of 2012 and 2013, you had between 6.8 and \$5.3 million
19 in that money market? Would I be correct?

20 A. Yes.

21 Q. And that was not needed to make up for a shortfall on dues
22 in any particular month?

23 A. I can't really say that.

24 Q. You can't really say it? Did you keep 5.3 to \$6.8 million
25 to make up for a shortfall in dues?

HAPJSEA4

Husamudeen - recross

1 A. We might not need \$5.8 million, but the reserves is there
2 so if we need it.

3 Q. I am sorry. We are having months where no one is paying
4 dues?

5 A. There is a possibility. Anything could happen.

6 Q. So we let \$6.7 million there on the possibility that no one
7 would pay dues in a month?

8 A. Yes.

9 Q. And that is the way you ran this union?

10 A. Very conservative. The dues money of the members is to
11 operate the union.

12 Q. And so?

13 A. It is not a profit-making corporation.

14 Q. The \$6 million sat there making 1 percent and your costs
15 went up in 2014 more than a half million dollars. That is your
16 testimony?

17 A. I wasn't president when all of that was going on or
18 treasurer.

19 Q. Mr. Seabrook was?

20 A. Yeah, exactly.

21 Q. And Mr. Seabrook made the decision that leaving \$6.8
22 million of 1 percent was not in the union's interest?

23 A. And I would have to say he made the decision to leave it
24 there for two or three years and sat there doing nothing.

25 So --

HAPJSEA4

Husamudeen - recross

1 Q. Probably --

2 THE COURT: Hold on.

3 (Multiple voices)

4 THE COURT: Finish the answer.

5 THE WITNESS: I am done.

6 BY MR. SHECHTMAN:

7 Q. Your testimony is probably a mistake, he should have pulled
8 it out sooner?

9 A. That is not what that fund is for. The annuity fund is for
10 investment. The general fund, the operating fund is for the
11 operation of the union.

12 Q. Now, the way this was set up, and I think we saw this, in
13 order to ensure liquidity, you could pull money out on three
14 days' notice. Is that correct?

15 A. What do you mean? I don't know.

16 Q. The money that went to Platinum out of COBA, that could be
17 pulled out on three days' notice?

18 MR. BELL: Objection; scope.

19 THE COURT: Let's have a brief sidebar.

20 MR. SHECHTMAN: I would be very quick. One document I
21 didn't get in before that I think is important here. It will
22 take me two seconds.

23 THE COURT: Let's have a quick sidebar.

24 (Continued on next page)

1 (At the sidebar)

2 THE COURT: I am concerned about the time for this.

3 The witness said he wasn't aware of these documents. The
4 documents are in evidence.

5 MR. SHECHTMAN: It is not. It will take 30 seconds.

6 THE COURT: You read the certain portions in front of
7 the jury. They're in evidence. You are trying to get this
8 witness to agree with you about what this means. At this point
9 you may be taking us down a road that will have you wind this
10 up even more. Give me a sense of where we are going.

11 MR. SHECHTMAN: The shortest reason. I want to show
12 him money was pulled out on three days' notice in August.

13 THE COURT: We have been through that. You pulled
14 that out in cross-examination in three days.

15 MR. BELL: I didn't address it.

16 MR. SHECHTMAN: I wanted to pull out it was --

17 THE COURT: You got him so say that on your cross.

18 MR. SHECHTMAN: He said could be. I want to find to
19 for sure if it was.

20 THE COURT: And what else?

21 MR. SHECHTMAN: I am done.

22 THE COURT: I will let you do that. Let's go.

23 MR. SHECHTMAN: Five minutes at the most.

24 THE COURT: That is more than one question.

25 MR. SHECHTMAN: I have a sense it is one more

HAPJSEA4

Husamudeen - recross

1 question.

2 THE COURT: Move this along. The witness was a lot
3 longer than 45 minutes.

4 MR. SHECHTMAN: The witness said he never --

5 (Multiple voices)

6 MR. SHECHTMAN: I will ask him three questions about
7 that and I am done, five minutes.

8 THE COURT: Reality? Let's go.

9 (Continued on next page)

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1 (In open court)

2 MR. SHECHTMAN: Ms. Granquist, would you put
3 Government Exhibit 316 up on the screen. We're okay admitting
4 this?

5 MR. BELL: Yes, we are.

6 BY MR. SHECHTMAN:

7 Q. Just to look at this briefly, Mr. Husamudeen, you testified
8 there was that side letter that --

9 THE COURT: Hold on. Now the jurors have it.

10 BY MR. SHECHTMAN:

11 Q. -- you testified there was a side letter that allowed the
12 money to be moved out on three days' notice. Would you look at
13 Government Exhibit 316.

14 A. I testified that -- you said I testified that there was a
15 three day? Or you showed me a document stating that there was.

16 Q. I showed you a document. Do you see this document?

17 A. Yes.

18 Q. And that is a request to redeem the money on three days'
19 notice. Am I correct?

20 A. Yes, sir.

21 Q. Dated in August of 2013?

22 A. Yes.

23 Q. There was a series of questions about concerns that your
24 lawyer had. Do you remember those questions?

25 A. Yes.

HAPJSEA4

Husamudeen - recross

1 Q. I take it that it is your testimony that nobody told you
2 about those concerns?

3 A. Yes, that is my testimony.

4 Q. If those concerns had been addressed and resolved by the
5 lawyers with Platinum's lawyers, weren't your lawyers supposed
6 to tell you we have concerns but they were addressed?

7 A. They are my lawyers. I am a trustee, so if you share it
8 with the chairman who is also a trustee, why wouldn't you share
9 it with me? I am a trustee as well.

10 Q. My question is, your lawyers were tasked with doing due
11 diligence, right, after the January meeting?

12 A. Yes.

13 Q. And if they had concerns and if those concerns were
14 addressed, though they no longer had concerns, were they
15 failing you if they didn't tell you?

16 A. In my opinion, yes.

17 Q. So it is your view that they should have said to you there
18 was a PIK issue but we resolved it?

19 A. The annuity fund consisted --

20 Q. My question --

21 A. Consisted of --

22 (Multiple voices)

23 A. I am one of them and they should just inform the chairman,
24 which I am right now for this fund, I should have been informed
25 about this and so should the other trustees of this fund.

HAPJSEA4

Husamudeen - recross

1 Q. Even though those concerns were resolved to the lawyers'
2 satisfaction, right, with a side letter, they still should have
3 told you?

4 MR. BELL: Objection.

5 THE COURT: I will allow it.

6 A. The letter, all of these letters and emails are addressed
7 to who? The Board of Trustees. So, yes, yes, I should have
8 known about the concerns whether they were resolved or not. I
9 am a trustee. I should have been informed.

10 Q. I take it the following: One of these letters was
11 addressed to the Board of Trustees. The rest of them were
12 addressed to Platinum. Would I be correct?

13 A. I saw my name or I saw Board of Trustees on quite a few of
14 these letters.

15 Q. On one letter, sir? Am I correct?

16 A. I am not sure.

17 MR. SHECHTMAN: No further questions.

18 MR. BELL: We have nothing else.

19 THE COURT: The witness is excused.

20 (Witness excused)

21 THE COURT: Let's have the government call its next
22 witness.

23 MR. CAPONE: The government calls Matthew Balemian.

24 MATTHEW BALEMIAN,

25 called as a witness by the Government,

1 having been duly sworn, testified as follows:

2 THE COURT: Now the acoustics here aren't great, so if
3 you can lean into the microphone and give us a Testing 1, 2, 3.

4 THE WITNESS: Testing 1, 23.

5 DIRECT EXAMINATION

6 BY MR. CAPONE:

7 Q. Good afternoon, sir.

8 A. Good afternoon.

9 Q. Where do you work?

10 A. SS&C Technologies.

11 Q. How long have you worked for SS&C Technologies?

12 A. I have been at SS&C for 19 years.

13 Q. How far did you go in school?

14 A. Degree in accounting, bachelors degree in accounting.

15 Q. What is SS&C technology?

16 A. We're a software company. We provide investment and
17 financial software-enabled services such as fund administration
18 to hedge fund clients and private equity clients.

19 Q. Can you explain to us as simply as possible what it means
20 to provide fund administration services to hedge fund clients.

21 A. Sure. As a third-party administrator, we are maintaining
22 the books and records independently for our clients' funds on a
23 monthly basis, calculating the value of those funds and
24 reporting that information to investors.

25 Q. What is your title?

HAPJSEA4

Balemian - Direct

1 A. I am a managing director in investor services.

2 Q. What does the Investor Services Department do?

3 A. Investor services is responsible for onboarding new
4 investors into the funds. We will capture and collect their
5 subscription information when they're investing money into the
6 particular fund. We'll maintain a share registry of those
7 investors' information. We'll also provide reporting back to
8 them inclusive of the account value of their statements on a
9 monthly basis.

10 Q. Is there also an accounting department at SS&C?

11 A. There is.

12 Q. What is that department do?

13 A. The accounting department maintains the books and records
14 so they're capturing from the funds' portfolio transactions,
15 they're recording that into the general ledger, reconcile those
16 transactions back to custodians and prime brokers. They're
17 also calculating the net asset value on a monthly basis for
18 those funds.

19 Q. You mentioned a moment ago you used the term subscription.
20 What is that?

21 A. Subscription is a way that a client invests into a fund, so
22 with an offering document for a particular fund there is a
23 particular document that an investor has to complete in order
24 to invest money into the fund itself.

25 Q. So for SS&C's clients, does SS&C keep track of when new

HAPJSEA4

Balemian - Direct

1 investors subscribe to that client's fund?

2 A. Yes, we do.

3 Q. As well as when existing investors add money to the fund?

4 A. Correct, yes.

5 Q. How does SS&C keep track of that information?

6 A. We have internal proprietary systems and software, so as we
7 capture those transactions, we're processing them and recording
8 them into our systems directly.

9 Q. Are you aware of an entity called Platinum Partners?

10 A. Yes.

11 Q. What is it?

12 A. It is a hedge fund client of SS&C.

13 Q. Does SS&C provide both investor services and accounting
14 services for Platinum Partners?

15 A. Yes, we do.

16 Q. Are you aware of whether Platinum Partners had one fund or
17 multiple funds?

18 A. They had multiple funds.

19 Q. What are the funds of which you're aware?

20 A. They had value arbitrage funds, liquid opportunity funds
21 and credit funds as well.

22 Q. Does SS&C prepare reports for its clients including
23 Platinum Partners regarding the investors in the funds?

24 A. Yes, we do.

25 Q. If you can look on the ledge there right next to the stack

HAPJSEA4

Balemian - Direct

1 of documents.

2 A. Yes.

3 Q. Would you take a quick look through them and let me know if
4 you recognize them?

5 A. I do recognize them.

6 Q. And they are for the record Government Exhibits 1113, 1114,
7 1115, 1118, 1119 and 1120.

8 MR. CAPONE: I will offer them now if there is no
9 objection?

10 THE COURT: Any objection by either defense counsel?

11 MR. MAZUREK: No, your Honor.

12 MR. SHECHTMAN: No, your Honor.

13 THE COURT: Those are in.

14 (Government Exhibits 1113, 1114, 1115, 1118, 1119 and
15 1120 received in evidence)

16 BY MR. CAPONE:

17 Q. What are those?

18 A. These represent investor capital detailed partnership
19 reports for both Platinum Value Arbitrage U.S. fund and
20 international fund.

21 Q. Do they pertain to a particular time period?

22 A. They pertain to years 2013, 2014 and 2015.

23 Q. What are they? What does an investor capital detailed
24 report show?

25 A. It's depicting the value of each investor's holding within

HAPJSEA4

Balemian - Direct

1 the fund.

2 Q. These are for the U.S. and the international funds?

3 A. Correct.

4 Q. For the Platinum Partners Value Arbitrage Fund?

5 A. Correct.

6 Q. Do you know what the difference is between the U.S. and the
7 international fund?

8 A. Yes.

9 Q. What is it?

10 A. A U.S. fund is based more for U.S. investors. A non-U.S.
11 fund is for tax exempt U.S. investors or foreign investors.

12 Q. In the case of Platinum Partners, are you aware of whether
13 the Platinum Partners Value Arbitrage Fund International and
14 U.S. funds link up in any way?

15 Q. They are considered feeder funds, which means they do
16 invest into another trading entity called the master fund, so
17 the Value Arbitrage International U.S. funds do invest in a
18 Value Arbitrage Master Fund for trading purposes.

19 Q. Let's take a look at a few of these documents and we can
20 put them on the screen starting with Exhibit 1113.

21 If we can highlight, Ms. Bustillo, the row at the top
22 which describes each of the columns. Mr. Balemian, can you
23 take us through each of these columns and explain what a report
24 like this shows.

25 A. Sure. The investor description and parent investor is the

HAPJSEA4

Balemian - Direct

1 legal name of that investor who is invested into this fund.

2 The investor type code represents the class that they've

3 invested into based on the offering documents and their

4 subscription documents. Beginning capital would represent in

5 this case it's a January 13 monthly cycle. That would be the

6 beginning capital balance as of that period. Contributions,

7 withdrawals, assignments would be any capital activity that was

8 processed for those particular investors. That would then give

9 you revised beginning capital. The income allocation is how

10 much did the fund earn or lose in that particular monthly

11 cycle. That is allocated to each investor.

12 Management incentive fees are religious fees related

13 to -- fees that are calculated against the investor based on

14 the class of series that they've invested with the fund.

15 Q. How about withdrawals and ending net capital?

16 A. Ending withdrawals would be again any withdrawal payments

17 made to the investor base on their requests at the end of the

18 period and ending net capital would represent what the value is

19 of their fund at that time period.

20 Q. Are you able to tell in a report such as this what the

21 value of any individual investor's investment is in that fund

22 at the end of the month?

23 A. Yes, we are.

24 Q. Can we go, Ms. Bustillo to Page 56 of this document.

25 Again what fund does this pertain to?

HAPJSEA4

Balemian - Direct

1 A. This is the Platinum Value Arbitrage USA Fund.

2 Q. Does this particular portion of the document show the value
3 of investors' investments at the year end 2013?

4 A. Yes, would represent the end of the year value for 2013.

5 Q. I want to highlight a few of these for you to read. Ms.
6 Bustillo, starting with the third entry, Alexander Huberfeld.

7 What is the value of that individual's investment at
8 year end 2013?

9 A. \$172,073.65.

10 Q. Just a little bit lower, Ms. Bustillo. Ariella Huberfeld,
11 what is the value of that investor's investment?

12 A. \$114,715.75.

13 Q. And lower in on the page, the Huberfelds, Jessica. What is
14 the value of that investor's --

15 A. \$172,073.65.

16 Q. And below that Philip and Rae Huberfeld?

17 A. Ending balance \$205,176.74.

18 Q. Finally, a little bit below or just below Rachel Huberfeld,
19 how about the value of that?

20 A. The value was \$172,073.65.

21 Q. If we can take this exhibit down and please put up
22 Government Exhibit 1118. Mr. Balemian, what fund does this
23 document pertain to?

24 A. The pertains to the Platinum Value Arbitrage Fund
25 International.

HAPJSEA4

Balemian - Direct

1 Q. For the same PPVA, but now the international fund?

2 A. Correct.

3 Q. Can we go to Page 55. What time period are we looking at
4 here?

5 A. We're looking at the final month of 2013, December.

6 Q. And again I want to highlight a couple of the entries a
7 little bit down that first page, the Huberfeld Family
8 Foundation.

9 What is the value of the Huberfeld Family Foundation's
10 investment in the fund at year end 2013?

11 A. The value was \$10,247,993.88.

12 Q. Lower down on the page there is another Huberfeld Family
13 Foundation investment. Would you highlight that. What is the
14 value of this second Huberfeld Family Foundation investment at
15 year end 2013?

16 A. The value there was \$2,160,853.16.

17 Q. That is about 12.4 million total, if you add those two up?

18 A. Correct.

19 Q. Let's now review the report for 2013, and I want to review
20 2014 before we wrap up. Ms. Bustillo, if we can put up
21 Government Exhibit 1114. Thank you.

22 What is this?

23 A. This is a 2014 investor capital statement for the Platinum
24 Value Arbitrage Fund USA.

25 Q. Ms. Bustillo, can we go to Page 51, please. Excuse me.

HAPJSEA4

Balemian - Direct

1 56. You were right the first time. What time period does this
2 page show?

3 A. This shows the final month in 2014 for December.

4 Q. Again if we can highlight the Huberfeld related entities
5 starting with Alexander Huberfeld, what is the value of that
6 investment at year end 2014?

7 A. The value was \$146,892.53.

8 Q. And Ariella Huberfeld just below it?

9 A. \$107,286.96.

10 Q. Ms. Bustillo, a little lower. Jessica Huberfeld, what is
11 the value of that investment?

12 A. \$146,892.53.

13 Q. Philip and Rae Huberfeld?

14 A. \$128,193.52.

15 Q. And finally on this document Rachel?

16 A. \$146,892.53.

17 Q. And this is all year end on the U.S. fund?

18 A. Correct.

19 Q. So let's take a look at one more, Exhibit 1119. What fund
20 does this pertain to?

21 A. This pertains to the PPVA, Platinum Value Arbitrage Fund
22 International Limited.

23 Q. Page 51, please. Again if we can take a look at what time
24 period is this?

25 A. This is for the final month of the year 2014, December.

HAPJSEA4

Balemian - Direct

1 Q. Ms. Bustillo, the first Huberfeld Family Foundation entry.

2 What is the value of the Huberfeld Family Foundation
3 first investment at year end 2014?

4 A. \$10,977,310.53.

5 Q. How about the second Huberfeld Family Foundation?

6 A. \$2,314,629.38.

7 Q. That is about 13.3 million?

8 A. Correct.

9 Q. Have you reviewed this particular exhibit, Government
10 Exhibit 1119, prior to testifying today?

11 A. Yes.

12 Q. Did you also see entries for the Correction Officers
13 Benevolent Association?

14 A. I have.

15 Q. Let's take a look at a couple of those. Page 52, Ms.
16 Bustillo.

17 Two-thirds of the way down the page do you see a
18 Corrections Officers Benevolent Association annuity fund? What
19 is the value of that investment at year end 2014?

20 A. The value is \$10,540,158.05.

21 Q. Is this second entry in a different legal name?

22 A. It is.

23 Q. What is it?

24 A. The Correction Officers Benevolent Association, Inc.

25 Q. What is the value of that investment at year end 2014?

HAPJSEA4

Balemian - Direct

1 A. \$5,126,430.59.

2 Q. One more page, Ms. Bustillo.

3 Do you see a third Correction Officers' Benevolent
4 Association investment?

5 A. I do.

6 Q. What is the value of that investment?

7 A. The value is \$5,054,235.59.

8 Q. In total, do the three investment we have just reviewed
9 exceed \$20 million?

10 A. They do.

11 Q. Were you able to tell where the Correction Officers
12 Benevolent Association ranked compared to other investors at
13 the year end 2014 in this fund in terms of the overall capital
14 in the fund?

15 A. We were.

16 MR. MAZUREK: Objection. Vague as to rank.

17 BY MR. CAPONE:

18 Q. In terms of dollar value?

19 THE COURT: Overruled. Go ahead. You may answer.

20 A. The dollar value was the fourth largest investment in the
21 fund.

22 Q. How many investors, roughly, were in the fund as of this
23 month?

24 A. Approximately 175.

25 Q. How about the Huberfeld Family Foundation, where did that

HAPJSEA4

Balemian - cross

1 entity rank in terms of dollar value of the investments in the
2 fund at year end 2014?

3 A. That ranked around 10th at the fund.

4 Q. Again roughly out of 175?

5 A. Out of 175, approximately.

6 Q. You spoke earlier about SS&C tracking all of the
7 subscriptions to the fund on an annual basis?

8 A. Yes.

9 Q. Were you able to review the information concerning
10 subscriptions to the fund, the international fund, in 2014?

11 A. Yes.

12 Q. What was the single biggest subscriber to the international
13 fund in 2014?

14 A. COBA was the largest, Correction Officers Benevolent
15 Association was the largest subscriber for that year.

16 MR. CAPONE: No further questions.

17 THE COURT: Any cross-examination?

18 MR. MAZUREK: Briefly, your Honor.

19 THE COURT: Okay.

20 CROSS-EXAMINATION

21 BY MR. MAZUREK:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. My name is Henry Mazurek. I represent Mr. Huberfeld, and
25 we have never met before or talked before, correct?

HAPJSEA4

Balemian - cross

1 A. Correct.

2 Q. You were just asked about some questions regarding your
3 work as a fund administrator at SS&C for the Platinum Group of
4 Funds, correct?

5 A. Correct.

6 Q. I just want to understand, you had mentioned that there
7 were a number of funds that were part of the Platinum Group,
8 correct?

9 A. Correct.

10 Q. You were just asked questions by Mr. Capone related to a
11 subset of those funds, correct?

12 A. Correct.

13 Q. Specifically, the last set of questions regarding rankings
14 of different investments, he asked you specifically only with
15 respect to a certain subset of the funds called the PPVA
16 International Fund, correct?

17 A. That's correct.

18 Q. On direct examination you indicated that that fund is only
19 one of a couple of feeder funds into a master trading account,
20 correct?

21 A. Correct.

22 Q. What that means is that there were at least two funds, the
23 PPVA International and the PPVA USA, whose assets dropped down
24 into another fund where the trading and investment activity
25 actually took place?

HAPJSEA4

Balemian - cross

1 A. Correct.

2 Q. Correct?

3 A. Correct.

4 Q. So there is no distinction whatsoever between the money
5 that comes in either on the PPVA International side versus the
6 PPVA USA side, correct?

7 A. That's correct.

8 Q. It is just a matter of what tax entity is making the
9 particular investment?

10 A. Correct.

11 Q. So if you're actually going to rank a listing of
12 subscribers or investors who is actually investing within the
13 master account, you wouldn't just include the PPVA
14 International side, you would also want to add the USA side,
15 correct?

16 A. You could do so, correct.

17 Q. I am sure you could do so.

18 If you were trying to make a fair and accurate
19 representation of the money available to be traded or invested,
20 you would combine those two funds, correct?

21 A. Correct.

22 Q. But you were not asked to do that?

23 You were asked only to look at the PPVA International
24 side, correct?

25 A. Correct.

HAPJSEA4

Balemian - cross

1 Q. An important part of evaluating percentages or rankings of
2 investments would be to understand the total assets under
3 management. Would that be fair to say?

4 A. Correct.

5 Q. Assets under management, just so we're working under the
6 same understanding, are the total number of investments that
7 are available to the fund managers to invest, correct?

8 A. Correct.

9 Q. As the fund administrator, you are aware of the total
10 assets under management for the entire PPVA fund during the
11 course of the time you guys were administering the fund?

12 A. Yes.

13 Q. That would be one of the things that you would keep track
14 of, correct?

15 A. Correct.

16 Q. So I am going to ask you take a look at a couple of
17 documents. First of all, the investor capital information that
18 you were asked to look at by the government did not include the
19 assets under management totals?

20 A. We looked at both the U.S. and the international funds.

21 Q. I am asking whether those big spreadsheets that were
22 printed out and admitted into evidence, did they include the
23 assets under management for those funds for those years?

24 A. Yes.

25 Q. So can you look in that stack of documents to your left and

HAPJSEA4

Balemian - cross

1 tell me two things: First, what the assets under management
2 were for the PPVA International Fund at December 31, 2014, and
3 the assets under management for the PPVA USA fund for the end
4 of 2014?

5 A. Yes.

6 MR. MAZUREK: And then, Judge, I am going --

7 THE COURT: Hold on.

8 MR. MAZUREK: I am not asking the witness. I am
9 asking the court's indulgence to allow me once I get the
10 answers to put them, write them on the screen as a
11 demonstrative aid for the jury.

12 THE COURT: Okay. Does the government have any
13 position on that?

14 MR. CAPONE: No objection.

15 THE COURT: Okay.

16 MR. MAZUREK: Can we publish the electric white board,
17 please.

18 THE COURT: Has the witness had a chance to review
19 that?

20 THE WITNESS: Yes, I do have them.

21 THE COURT: Does the witness have an answer to the
22 question yet?

23 THE WITNESS: Yes, for Platinum Arbitrage Fund
24 International for the end of 2014, the value of the fund was
25 \$491,656,504.26.

HAPJSEA4

Balemian - cross

1 BY MR. MAZUREK:

2 Q. That was for the international fund?

3 A. That was for the international fund.

4 Q. And for the PPVA USA fund?

5 A. And for the PPVA at the end of 2014 U.S. fund, the value
6 was \$267,356,881.51.

7 MR. MAZUREK: If I my just write those numbers down on
8 the white board for the jury?

9 THE COURT: Go ahead.

10 MR. MAZUREK: So we have -- is it working -- sorry for
11 the chicken scratch here. I N T L is for international, okay?

12 Q. And you said at that time was 491 million?

13 A. Yes.

14 Q. That is 491 million, correct?

15 A. Correct.

16 Q. For the end of 2014, correct?

17 A. Correct.

18 Q. And then there was a second fund which you had called the
19 feeder fund, right, PPVA USA fund, right?

20 A. Correct.

21 Q. And you said at the end of 2014, that was approximately 267
22 million?

23 A. Yes.

24 Q. 491 plus 267, correct?

25 A. Yes.

HAPJSEA4

Balemian - cross

1 Q. I am going to let you do the math if you might to tell me
2 what the total assets under management, I'll designate that as
3 AUM for assets under management, right? Okay?

4 A. Okay.

5 Q. And can you do the math for me?

6 A. I can't write on there?

7 Q. What is that? I don't think you can write on there.

8 A. 758.

9 Q. I am sorry? 758, right?

10 A. Did I do my math right?

11 Q. Hold on. 758, okay. \$758 million, right?

12 A. Yes.

13 Q. That is the amount that the SS&C reported as fund
14 administrator was valuable for the Platinum managers to invest
15 by the end of 2014, correct?

16 A. That was the ending value in the fund for that time period,
17 yes.

18 Q. You were asked questions about a particular investor in
19 2014, and that was I'll call the Correction Officers Benevolent
20 Association, right?

21 A. Yes.

22 Q. And you totaled that I believe in your direct testimony in
23 2014, approximately \$20 million, \$20 million exactly was
24 subscribed to the PPVA International side, right?

25 A. Yes.

HAPJSEA4

Balemian - cross

1 Q. And that would be part of the \$491 million you see on the
2 screen, correct?

3 A. Yes.

4 Q. And the only reason that -- I'll use the shorthand COBA for
5 the correction officers' investment, okay -- the only reason
6 COBA invested on that top line, that top line of the
7 international was because it is a tax exempt organization,
8 correct?

9 A. Correct.

10 Q. And there is no distinction between the people who invested
11 or at least -- strike that.

12 There is no difference between the people who invest
13 in international versus USA in terms of the types of
14 investments the subscriber is going to get in that fund,
15 correct?

16 A. Correct.

17 Q. So the total number of actual subscriptions that come into
18 PPVA should include both the international and USA for the
19 purposes of measuring investment capital available to the fund,
20 right?

21 A. Correct.

22 Q. And the \$10 million or \$20 million number you looked at,
23 first of all, you were asked questions about the difference
24 from the initial amount invested in 2014 up until the amounts
25 that were reported at the end of 2014, correct?

HAPJSEA4

Balemian - cross

1 A. Yes.

2 Q. I believe I wrote down the numbers correctly.

3 There was, you testified there was a gain in the COBA
4 account by the end of the year, correct, from the original
5 investment?

6 A. By a "gain," you mean --

7 Q. More money, there was more money in the account on December
8 31st, 2014 than was actually invested?

9 A. Well, there was money that was invested that year in 2014.

10 Q. Correct. We said that was \$20 million, right?

11 A. Yes.

12 Q. And at the end of 2014 there was more than \$20 million in
13 the COBA accounts?

14 A. Yes.

15 Q. The numbers you reported were about 5.054 million for one
16 account at the end of December 31st, 2014, right?

17 A. Correct.

18 Q. And then there was approximately 10.5 million in another
19 account by the end of 2014?

20 A. Correct.

21 Q. And approximately 5.126 million in a third account,
22 correct?

23 A. Correct.

24 Q. I know you're trusting me on this, but if I add those three
25 numbers up, that is approximately \$20,670,000. Does that sound

HAPJSEA4

Balemian - cross

1 about right?

2 A. That sounds about right.

3 Q. So in one year's investment, COBA made \$670,000?

4 A. That would sound correct.

5 Q. That \$20 million that was invested in 2014 by COBA, if that
6 represented a percentage, if that were represented as a
7 percentage of the total assets under management that were
8 available to the hedge fund managers to invest, tell me if I am
9 correct in my math, what I would do is I would divide 20
10 million by the total assets under management of 758 million.

11 Is that right?

12 A. Yes.

13 Q. So the COBA investment in 2014 as a percentage of all of
14 the investments in the PPVA fund is approximately 2.6 percent,
15 correct?

16 A. Without doing the math, that sounds about right.

17 Q. You know that this fund was around since approximately
18 2003. Is that right?

19 A. I don't recall. I am not sure.

20 Q. SS&C has been the fund administrator for the entire
21 duration of the fund?

22 A. No.

23 Q. Of its existence?

24 A. No.

25 Q. When did they start, do you remember?

HAPJSEA4

Balemian - cross

1 A. I believe when the investors side, it was 2007. I don't
2 recall on the accounting side.

3 Q. So SS&C has been the fund administrator for the Platinum
4 Group of Funds at least by 2014 for seven years?

5 A. I would say yes, correct.

6 Q. And you were only asked about PPVA, but you are also aware
7 the Platinum Group of Funds has other funds other than PPVA,
8 correct?

9 A. Correct.

10 Q. I think you alluded to some of that in your direct
11 examination, that it also include the PPCO, correct?

12 A. Yes.

13 Q. That is the Platinum Partners Credit Opportunity Fund,
14 correct?

15 A. Correct.

16 Q. That was a largely a debt-based investment strategy fund,
17 correct?

18 A. I'm not sure.

19 Q. You're not familiar with the investment strategy?

20 A. No, I am not, not with that fund, no.

21 Q. That was a fund that also SS&C acted as fund administrator
22 for, correct?

23 A. Correct, we do.

24 Q. I am going to ask you to take a look at a document I am
25 marking for examination as --

HAPJSEA4

Balemian - cross

1 THE COURT: Before you do that, let's go ahead and
2 take a 10-minute break, all right? We'll be right back, okay?
3 Don't discuss the case with anyone else, don't discuss it
4 amongst yourselves. See you soon.

5 (Jury excused)

6 THE COURT: My Deputy handed me a note indicating one
7 or some of the jurors indicated they needed to take a restroom
8 break. Let's excuse the witness now for the time being and ask
9 counsel something real quick. Let me ask the witness to step
10 outside.

11 (The witness left the courtroom)

12 THE COURT: Is the witness out of the courtroom now?

13 MR. MAZUREK: Yes.

14 THE COURT: Let me get a sense from defense counsel,
15 how much longer do you have with this witness?

16 MR. MAZUREK: I have probably another set of numbers
17 to do and that should be it.

18 THE COURT: I am starting to get concerned about the
19 pace here. We need to move these things along a little bit.

20 MR. MAZUREK: I haven't done anything wrong.

21 THE COURT: The documents are in evidence. We don't
22 need to just read all of the documents that are in evidence.

23 MR. MAZUREK: I won't do that.

24 THE COURT: The witness seems to be agreeing with your
25 math. You don't need to be carrying the 1 here on the screen

HAPJSEA4

Balemian - cross

1 here. Let's just try to keep things moving because I am
2 worried about the pace we have got here. You have got seven
3 more numbers, you said. How long do you think this will take?

4 MR. MAZUREK: I'll finish before 2:30.

5 THE COURT: Can you give me just a quick offer of
6 proof? What are these numbers about? I want to move things.
7 I know that counsel, you want to litigate this all to the hilt,
8 but what are we talking about in terms of the numbers?

9 MR. MAZUREK: I want to put into evidence the PPCO
10 numbers that are also part of the fund that have not been
11 admitted because they're relevant. The government has
12 introduced only a part --

13 THE COURT: Before you go further, does the government
14 have any objection to this coming in?

15 MR. CAPONE: One second, your Honor.

16 (Off-the-record discussion)

17 MR. CAPONE: The PPCO is not the fund that was
18 invested in.

19 THE COURT: I got that. Do you have any objection to
20 this coming in?

21 MR. MAZUREK: I can offer --

22 MR. CAPONE: If I can hear what the relevance is.

23 THE COURT: What is the relevance?

24 MR. MAZUREK: They put in information, only partial
25 information of the Huberfeld investments into the fund and

HAPJSEA4

Balemian - cross

1 PPCO. There are additional investments that were made, so it
2 is an impartial picture of the Huberfeld investments.

3 MR. CAPONE: No objection, your Honor.

4 THE COURT: No objection. So you can just -- that is
5 in evidence. Tell me what the number is later. Put that on
6 the screen. Move. What else do you need to do with these
7 documents, with these numbers? Where are you going with this
8 witness?

9 MR. MAZUREK: That would be it, your Honor.

10 THE COURT: I think the point has been made. The
11 point is what was presented by the government was sort of an
12 inflated picture of the percentage of the COBA and Huberfeld
13 investment in terms of the assets under management. I think
14 that has been established. If you want to --

15 MR. MAZUREK: I won't beat a dead horse.

16 THE COURT: You can't do that, but let's try to move
17 this along.

18 MR. MAZUREK: I will do that. This is the first time
19 I stood up the whole case.

20 THE COURT: I understand. So then with this
21 understanding, there won't be objection to this evidence coming
22 in, how long do you think it will take to do this bit with the
23 witness?

24 MR. MAZUREK: Me?

25 THE COURT: Yes.

HAPJSEA4

Balemian - cross

1 MR. MAZUREK: It shouldn't take long, 10 minutes. I
2 will go as quickly as I can.

3 THE COURT: Okay. Who is next on tap?

4 MR. CAPONE: Gilad Kalter, your Honor.

5 THE COURT: All right. Counsel may go ahead and use
6 the restroom if you need to, but keep things moving along here.

7 MR. MAZUREK: I promise.

8 (Recess)

9 (Continued on next page)

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HAPPSEA5

Balemian - Cross

1 THE COURT: Is the witness here? Go ahead and bring
2 the witness in. Okay. Are we ready? All right. Let's bring
3 the jury in.

4 (Jury present)

5 THE COURT: Okay. Please be seated. Let's continue.
6 Go ahead, counsel.

7 MR. MAZUREK: Thank you, Judge.

8 CROSS-EXAMINATION (Resumed)

9 BY MR. MAZUREK:

10 Q. Mr. Balemian, I just want to go back to clarify one point
11 that you just made before the break, and I think this was my
12 error. We were talking about the total COBA investments by the
13 end of December 31st, 2014, correct? Do you remember that?

14 A. Yes.

15 Q. And we did some math and figured that it was about a
16 \$700,000 gain on the investment by the end of the year,
17 correct?

18 A. Yes.

19 Q. But that \$700,000 gain was not on a full year's investment
20 opportunity, correct?

21 A. Based upon the time they invested throughout the year, it
22 could have been a partial year.

23 Q. That's right. So if there were three investments made in
24 March, June and August by COBA, so that \$700,000 was actually
25 made on much less than one year of investment opportunities for

HAPPSEA5

Balemian - Cross

1 that money, correct?

2 A. That's correct.

3 Q. Okay. Now, we were also talking about PPCO, which is the
4 credit opportunity part of Platinum Partners, correct?

5 A. Correct.

6 Q. And that is another one of the family of funds of Platinum,
7 correct?

8 A. It is.

9 Q. And it's run by the same managers, the same investment
10 managers, correct?

11 A. Yes.

12 Q. And I put in front of you two documents which have been
13 marked as MH103 and 104.

14 MR. MAZUREK: These are not in evidence, your Honor.
15 I've also provided copies to the government.

16 THE COURT: Are these the documents that you seek to
17 move into evidence for which there is no objection?

18 MR. MAZUREK: Yes.

19 MR. CAPONE: Yes, your Honor.

20 THE COURT: So move them in. They're in. What
21 numbers are they?

22 MR. MAZUREK: Defense Exhibits MH103 and MH104.

23 THE COURT: Okay. They're in.

24 (Defendant's Exhibits MH103 and MH104 received in
25 evidence)

HAPPSEA5

Balemian - Cross

1 THE COURT: Go ahead and publish them.

2 MR. MAZUREK: If we can take the December 2013
3 document.

4 THE COURT: Do the jurors have it? Not yet? Okay.
5 Do the jurors have it now?

6 MR. MAZUREK: No.

7 THE COURT: Okay. Go ahead, counsel.

8 BY MR. MAZUREK:

9 Q. Great. So on your screen you see a Platinum Partners
10 monthly letter dated December '13; is that right, sir?

11 A. It appears as so, yes.

12 Q. Okay. And do you see about two-thirds down the screen, if
13 we can enlarge the section called funds statistic?

14 A. Okay, I see that.

15 Q. And do you see in the last column, farthest to the right,
16 it says "firm AUM;" do you see that?

17 A. Yes.

18 Q. AUM, we've used that abbreviation before to mean assets
19 under management, correct?

20 A. Correct.

21 Q. And it says 1.28 billion for the end of '13, correct?

22 A. It does.

23 Q. Okay. And underneath there it says PPCO master fund assets
24 under management, 331 million, correct?

25 A. Correct.

HAPPSEA5

Balemian - Cross

1 Q. That \$331 million figure is in addition to the PPVA assets
2 under management, correct?

3 A. This is for the credit opportunities fund; so that would be
4 separate, yes.

5 Q. So the number that is right above it, at 1.28 billion, that
6 reflects the entire amount of assets under management by
7 Platinum for the PPVA and the PPCO and the PPLO funds, correct?

8 A. I am not certain of that.

9 Q. That's what's reported here on the statistics being
10 reported by Platinum Partners for the end of December of 2013,
11 correct?

12 A. Again, I'm not familiar with this document. I've not seen
13 this document.

14 Q. Okay. You're familiar with the reporting by SS and C of
15 the PPCO fund, correct?

16 A. I'm not closely familiar with that fund, no.

17 Q. But is it fair to say that your understanding is that the
18 combined Platinum Partners assets under management that you
19 were aware of, in the seven years that SS and C was the fund
20 administrator, by the end of '13 to '14, was over a billion
21 dollars?

22 A. Again, I cannot speak to that.

23 Q. Okay. We can take that off the screen.

24 You were only asked to look at the PPVA numbers before
25 your testimony today here by the government, correct?

HAPPSEA5

Balemian - Cross

1 A. Correct.

2 Q. You were also asked to identify on direct examination
3 certain investor funds that had the Huberfeld name associated
4 with it?

5 A. Correct.

6 Q. Okay. Do you know, sir, as you testify here today, whether
7 the accounts that you identified on Government Exhibits 113
8 through 120 represent all of the Huberfeld family related
9 investments in the Platinum Partners group?

10 A. I do not.

11 Q. Were you asked to look at the PPCO investments by the
12 Huberfeld family group?

13 A. No.

14 Q. So the testimony that you provided was limited only to PPVA
15 international with respect to the Huberfeld entities?

16 A. Yes.

17 Q. And one of the entities that you identified on direct
18 examination was the Huberfeld Family Foundation, which I think
19 you testified had approximately \$13 million invested in PPVA
20 international, correct?

21 A. Correct.

22 Q. And PPVA international is one for tax exempt organizations
23 investors, correct?

24 A. Correct.

25 Q. And are you familiar that the Huberfeld Family Foundation

HAPPSEA5

Balemian - Redirect

1 is one of the charities run by Murray Huberfeld's family?

2 A. I was not aware of that, but no.

3 Q. I'm sorry?

4 A. I was not aware, no.

5 Q. And, again, are you aware that the total subscriptions by
6 the PPCO fund in 2014 were over \$110 million?

7 A. Could you repeat the question?

8 Q. Were you aware that the PPCO subscriptions in 2014 were
9 over a hundred million dollars?

10 A. No, I was not.

11 Q. I'm sorry?

12 A. I was not aware, no.

13 Q. So when you were asked to calculate total contributions or
14 ranks of percentages by COBA in 2014, that number of
15 subscriptions by the PPCO part of the Platinum funds was not
16 part of your calculation in creating that ranking?

17 A. No, it was not.

18 MR. MAZUREK: I have nothing further, your Honor.

19 THE COURT: Any redirect?

20 MR. CAPONE: Very briefly, your Honor.

21 REDIRECT EXAMINATION

22 BY MR. CAPONE:

23 Q. Mr. Balemian, you were just asked some questions about the
24 PPCO fund?

25 A. Yes.

HAPPSEA5

Balemian - Redirect

1 Q. The PPCO fund is a completely different fund than the PPVA
2 fund; is that right?

3 A. Correct.

4 Q. And they don't link up like the PPVA international and
5 U.S., do they?

6 A. No.

7 Q. And are you aware of whether COBA ever invested a dime in
8 the PPCO?

9 A. I am not.

10 Q. You were also asked about whether you looked at -- whether
11 I asked you about subscriptions to the PPVA U.S. fund?

12 A. Yes.

13 Q. Do you recall that? On direct, I think you testified that
14 COBA invested \$20 million or so in 2014 into the international
15 fund; is that right?

16 A. Correct.

17 Q. And you also testified that that was the highest
18 subscription, in terms of dollar value, to the international
19 fund in 2014?

20 A. That is correct.

21 Q. Did you also look at subscriptions to the international
22 fund prior to testifying today -- sorry. Did you also look,
23 prior to testifying today, at subscriptions to the U.S. fund in
24 2014?

25 A. Yes.

HAPPSEA5

Balemian - Recross

1 Q. And were there any investors who subscribed more than \$20
2 million to the U.S. fund in 2014?

3 A. No.

4 Q. And so was COBA the highest subscriber, in terms of dollar
5 value, to either fund in 2014?

6 A. Yes.

7 MR. CAPONE: No further questions.

8 MR. MAZUREK: Briefly, your Honor. Limited recross.

9 RECROSS EXAMINATION

10 BY MR. MAZUREK:

11 Q. You were asked questions about the link between PPCO and
12 PPVA on redirect just moments ago, correct?

13 A. Yes.

14 Q. They are managed -- PPCO and PPVA are managed by the very
15 same hedge fund managers at Platinum Partners, correct?

16 A. Correct.

17 Q. And you were asked questions about the size of the
18 investments in 2014. You are aware, based on your calculations
19 and the reviews that you did in preparation for your testimony
20 today, that in 2014, PPVA for both U.S.A. and international,
21 had about \$84 million in investments that year, correct?

22 A. Correct.

23 Q. And all \$84 million that went into PPVA whether it was in
24 the U.S.A. or international, were available to the very same
25 asset managers at Platinum Partners who managed the PPVA and

HAPPSEA5

Balemian - Recross

1 the PPCO, correct?

2 A. Correct.

3 Q. And if you were a hedge fund manager at Platinum, it
4 wouldn't matter which one of these accounts that you think the
5 money came in from because they're all assets that you are
6 responsible for, correct?

7 MR. CAPONE: Objection, your Honor.

8 THE COURT: Please rephrase the question.

9 Q. Yes. The hedge fund managers at Platinum Partners are
10 responsible for managing the funds whether it came in in PPCO,
11 PPVA U.S.A., PPVA international, correct?

12 A. The trading strategies would be different and the offering
13 documents that were provided to the investors would alert them
14 to what they're investing into. So I would say from a master
15 perspective, it's a different trading strategy.

16 Q. But it is the same managers who have to manage all of those
17 funds, correct?

18 MR. CAPONE: Objection.

19 A. Same managers.

20 Q. Whether they invest in one type of trading strategy or
21 another, correct?

22 A. Same managers, but they would not commingle investments
23 from funds if they're investing in specific trading strategy
24 within that fund.

25 Q. I understand. My question is, if you were the hedge fund

HAPPSEA5

Kalter - Direct

1 manager, you're responsible for all \$1.2 billion of those
2 assets that come into your hands, correct?

3 A. That's correct.

4 MR. MAZUREK: Nothing further.

5 THE COURT: Okay. The witness is excused.

6 (Witness excused)

7 THE COURT: Government, you may call your next
8 witness.

9 MR. CAPONE: The government calls Gilad Kalter.

10 GILAD KALTER,

11 called as a witness by the Government,

12 having affirmed, testified as follows:

13 THE DEPUTY CLERK: Please state your first and last
14 name and spell it for the record.

15 THE WITNESS: Gilad Kalter, G-i-l-a-d, K-a-l-t-e-r.

16 THE DEPUTY CLERK: Please have a seat, Mr. Kalter.

17 THE WITNESS: Thanks.

18 THE COURT: Okay. Now, the acoustics here aren't
19 great; so if you can, just try to lean into the microphone and
20 give us a quick testing one, two, three.

21 THE WITNESS: Testing one, two, three.

22 THE COURT: Okay. Go ahead, counsel.

23 MR. CAPONE: Thank you, Judge.

24 DIRECT EXAMINATION

25 BY MR. CAPONE:

HAPPSEA5

Kalter - Direct

1 Q. Good afternoon, sir.

2 A. Good afternoon.

3 Q. Where were you born?

4 A. New York.

5 Q. And how far did you go in school?

6 A. Through law school.

7 Q. Are you currently employed?

8 A. No.

9 Q. What was your last job?

10 A. Regia Capital Management.

11 Q. And what was that?

12 A. It was a small private equity fund, private equity style
13 fund in New York.

14 Q. Is that a fund that you had tried to start up?

15 A. Yes.

16 Q. And prior to that, where did you work?

17 A. At Platinum Partners.

18 Q. And did you work for Platinum as a lawyer or in some other
19 capacity?

20 A. A little bit -- a little bit of both, a little bit of law
21 and a lot of chief operating officer.

22 Q. And from when to when had you worked at Platinum?

23 A. I started in at the beginning of 2005, near the beginning
24 of 2005, and I left in 2015.

25 Q. And do you recognize anyone in the courtroom with whom you

HAPPSEA5

Kalter - Direct

1 worked while at Platinum?

2 A. Yes.

3 Q. And who is that?

4 A. Mr. Huberfeld.

5 Q. And do you also recognize anyone in the courtroom
6 associated with any investors in Platinum?

7 A. Yes.

8 Q. And who is that?

9 A. Mr. Seabrook.

10 Q. And can you please identify each of those gentlemen by
11 where they're sitting and something that they're wearing?

12 A. Sure. Mr. Huberfeld is wearing a blue tie with light --

13 MR. MAZUREK: I'll stipulate, your Honor, Mr. Kalter
14 can identify Mr. Huberfeld.

15 THE COURT: Okay.

16 Q. Mr. Seabrook?

17 A. Mr. Seabrook is wearing a red tie, white shirt, pocket
18 square.

19 MR. SHECHTMAN: Stipulate to the pocket square.

20 THE COURT: Okay.

21 BY MR. CAPONE:

22 Q. Thank you. Was Platinum Partners a hedge fund?

23 A. It was a group of hedge funds.

24 Q. And can you explain to us what a hedge fund is?

25 A. A hedge fund is an investment company that raises capital

HAPPSEA5

Kalter - Direct

1 from investors, and the hedge fund manager then invests that
2 capital on behalf of the investors, seeking to return a profit
3 to investors.

4 Q. And when you started working at Platinum Partners in 2005,
5 at that time, was there multiple funds or one fund?

6 A. There was one fund.

7 Q. And what was the fund at that time?

8 A. It was called the Platinum Partners Value Arbitrage Fund.

9 Q. Can we call that PPVA going forward?

10 A. Sure.

11 Q. Before you were working at the PPVA, what were you doing?

12 A. I was a lawyer, practicing corporate law in New York.

13 Q. And how did you come to leave that job and work for
14 Platinum?

15 A. I begged a family member at Platinum for a job.

16 Q. And who was that family member?

17 A. My brother-in-law.

18 Q. And what is your brother-in-law's name?

19 A. His name is Mark Nordlicht.

20 Q. And at the time, in 2005, what was Mr. Nordlicht's role at
21 Platinum, or the PPVA?

22 A. He was the general partner of the fund. At some point, he
23 had the title of chairman and chief investment officer, but I'm
24 not sure if it dated back to 2005.

25 Q. And how old were you when you started at Platinum in 2005?

HAPPSEA5

Kalter - Direct

1 A. I think I was 27.

2 Q. And had you had any experience with hedge funds to that
3 point?

4 A. No.

5 Q. What was your -- well, how many people worked for Platinum
6 at the time you started, roughly?

7 A. I would say approximately eight to ten.

8 Q. And what was your job when you started?

9 A. I did a lot of different things at the beginning. I helped
10 out with the operations team. I helped out the marketing team.
11 I helped the -- some private investment folks with, I remember,
12 their stock loan book, a lot of little tasks.

13 Q. But not one, focused responsibility at first?

14 A. Correct.

15 Q. And how about, you identified earlier Mr. Huberfeld. What
16 role, if any, did he play at that time in Platinum?

17 A. Mr. Huberfeld was an investor who provided the -- provided
18 some of the, what we call, seed capital for Platinum, but he
19 had no role at PPVA.

20 Q. And when you say seed capital, what do you mean?

21 A. When a hedge fund is in its infancy, a seed capital partner
22 will be a partner who invests a large sum or enough of a sum to
23 get started and start investing, and typically that seed
24 partner will almost always have some equity in the business.

25 Q. And so was Mr. Huberfeld one of the individuals then that

HAPPSEA5

Kalter - Direct

1 started Platinum, the PPVA, with the seed capital?

2 A. Yes.

3 MR. CAPONE: Ms. Bustillo, can you publish three
4 photos to the witness 708, 709 and 712, and I can offer them if
5 there's no objection.

6 MR. SHECHTMAN: No objection.

7 MR. MAZUREK: No objection.

8 THE COURT: Okay. They're in.

9 (Government's Exhibits 708, 709 and 712 received in
10 evidence)

11 MR. CAPONE: Can we publish those to the jury as well,
12 Ms. Bustillo.

13 THE COURT: Okay. Do the jurors have it yet? Okay.
14 Go ahead, counsel.

15 BY MR. CAPONE:

16 Q. If you can, starting with the top left, identify who's in
17 Government 708?

18 A. It looks like me.

19 Q. And who's in 709, at the top right?

20 A. Mr. Nordlicht.

21 Q. That's your brother-in-law?

22 A. Yes.

23 Q. And who is at the bottom, 712?

24 A. Mr. Huberfeld.

25 Q. You can take that down, Ms. Bustillo.

HAPPSEA5

Kalter - Direct

1 When you started in 2005, where were the offices?

2 A. The offices were on 57th Street, on the 54th floor.

3 Q. And where on 57th Street?

4 A. Oh, it was Carnegie Hall Tower, which 152 West 57th.

5 Q. And on the 54th floor, are you aware of whose office space
6 it was at the time?

7 A. Yeah, it was the prior offices of Mr. Huberfeld's
8 predecessor firm that Platinum had taken over from him.

9 Q. And what was the name of that firm?

10 A. Broad Capital.

11 Q. And did Mr. Huberfeld, in 2005, when you started, have an
12 office in that space?

13 A. Yes.

14 Q. After you started at Platinum in 2005 and did miscellaneous
15 responsibilities, as you've described, did there come a time
16 when you took on a new role?

17 A. Yes.

18 Q. And what was that?

19 A. Sometime in the middle -- summertime of 2005, Mr. Huberfeld
20 had an idea for a new hedge fund that he sought to manage, and
21 he had asked me to come join him and help him build that new
22 fund.

23 Q. And what was the new fund called?

24 A. The new fund was called Centurion Credit Group.

25 Q. And do you have -- what had been your interactions with him

HAPPSEA5

Kalter - Direct

1 to date when he asked you to start?

2 A. Just seeing each other around the office, generally forming
3 a good relationship, and I think he thought I had a good skill
4 set to help him build that fund.

5 Q. And so did there come a time where you were formally
6 working for that new fund instead of Platinum?

7 A. Yeah, yeah.

8 Q. And what was -- you may have said this already, but what
9 was it called, the new fund?

10 A. It was Centurion Credit Group.

11 Q. And when were you officially working for Centurion, as
12 opposed to the Value Arbitrage Fund?

13 A. For some time I worked for both, and I would say
14 approximately 2007 I was solely focused on Centurion.

15 Q. And at that point, what happened to the office space at the
16 Carnegie Hall Tower?

17 A. Eventually Platinum took over the entire floor on 54, and
18 some point later took on the fourth floor, as well, and we
19 occupied both the 54th and fourth floors.

20 Q. Okay. So both entities were still in that building?

21 A. Both entities were still in that building.

22 Q. What was your official role at Centurion when you started
23 in 2007?

24 A. My role was the chief operating officer role. For a very
25 brief period of time I had the title of president of Centurion,

HAPPSEA5

Kalter - Direct

1 but that wasn't the appropriate title, and chief operating
2 offer is what I assumed quickly thereafter.

3 Q. What did you do as chief operating officer?

4 A. I helped make sure the business itself ran, that the
5 employees were paid, that the lights stayed on, that, you know,
6 general recurring bills were paid. I helped with legal work,
7 formation of the vehicles. Those two roles pretty much
8 occupied what I did, and every now and again I would help work
9 on a transaction.

10 Q. What was Murray Huberfeld's title?

11 A. Murray was the Chairman and Chief Investment Officer of
12 Centurion.

13 Q. And what did that mean in terms of his day-to-day role?

14 A. He was the boss. We reported directly to him, and any
15 major decisions that had to be made were, for the most part,
16 his to make.

17 Q. Are you aware of the term management fees?

18 A. Yes.

19 Q. And what are management fees?

20 A. Management fees are one of the fees that the hedge fund
21 manager will charge the hedge fund investors, and the way a
22 management fee works is it is a fixed percentage fee that is
23 charged on the value of the holdings of the hedge fund on an
24 annual basis. So if, for example, the management fee was a two
25 percent fee, then they would charge two percent of the value of

HAPPSEA5

Kalter - Direct

1 the hedge fund's portfolio on a monthly basis, one-twelfth of
2 two percent on a calendar year.

3 Q. And that's --

4 THE COURT: Hold on, counsel. We're getting close to
5 the time to dismiss the jury. Let me just see counsel briefly
6 in the robing room.

7 (Continued on next page)

HAPPSEA5

Kalter - Direct

1 (At the side bar)

2 THE COURT: I just wanted to find out if there's any
3 special instructions you want me to give them. I'll just give
4 them the typical instructions I've been giving them, unless
5 there's something else?

6 MR. BELL: No, your Honor.

7 MR. CAPONE: No.

8 MR. MAZUREK: Just one thing.

9 THE COURT: Yes.

10 MR. MAZUREK: Obviously, there were articles today; so
11 just to alert them to how important it is for the jury not to
12 be -- if they come across something when their web browser
13 shows up, or something, that they should turn away from it.

14 THE COURT: Okay. All right. Anything else?

15 MR. CAPONE: No, your Honor.

16 MR. MAZUREK: No, your Honor. Thank you.

17 THE COURT: Okay. Sounds good.

18 (Continued on next page)

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HAPPSEA5

Kalter - Direct

1 (In open court)

2 THE COURT: Okay. So members of the jury, we're going
3 to let you go home for the day. Again, I will instruct you, as
4 always, do not read anything in the press or on the Internet
5 about this case. If you should see something, do not continue
6 reading anything. Don't listen to anything about this case,
7 don't let anyone talk to you about this case, don't talk to
8 anyone about this case, don't do any independent research
9 regarding any of the issues or the parties in this case and
10 have a wonderful evening. We'll see you bright and early at
11 9:00 a.m.

12 (Jury not present)

13 THE COURT: So please be seated. Let's do this,
14 please be seated, and we'll give the jurors, again, a
15 five-minute head start, and then we'll go ahead and excuse the
16 witness, and then just a couple of things I want to talk to
17 counsel about, and then I'll let people get on about their
18 business. Okay? Just hang out here for five minutes.

19 (Pause)

20 Okay. We can excuse the witness now. Folks in the
21 audience, if you want to takeoff, go ahead and takeoff. I just
22 have a couple of things I want to address with counsel and the
23 parties. Let's wait for the witness to leave first.

24 (Witness temporarily excused)

25 Okay. Is the witness out of the courtroom?

HAPPSEA5

Kalter - Direct

1 Okay. Again, I expressed a concern, especially with
2 the witness before this one, just in terms of pace. I just
3 want to make sure that we keep things moving. Obviously, I'm
4 going to give counsel plenty of scope on direct and
5 cross-examination with these witnesses, and there are some
6 witnesses who it's obvious to me that counsel are going to want
7 a lot more time with, and I'm fine with that.

8 But the witness before this one, Mr. Balemian, it
9 seemed to me that he's not a crucial, crucial, crucial witness,
10 and it seems that we should be able to dispose of his testimony
11 pretty quickly. So I know that lawyers have different styles
12 and some may be more -- when it comes to examining witnesses,
13 some may be more like John Coltrane, some like be Miles Davis,
14 where you understand it's the notes that you don't play and the
15 questions you don't ask.

16 I don't care about the styles, except when I get too
17 much Coltrane, and it's going to take too much time and start
18 sucking up the jurors' time. I want to make sure that we make
19 the most of the jurors' time, make the most of the jurors'
20 attention span. We want to keep the jurors actively engaged,
21 and we want to move this case along.

22 So if there are quick witnesses that we can dispose of
23 quickly, let's try to do that. There are documents in evidence
24 that sort of speak for themselves. Let's just try to move this
25 examination along quickly.

HAPPSEA5

Kalter - Direct

1 If counsel know ahead of time that you want to
2 introduce something, unless you feel that you need to have the
3 element of surprise for a particular document, show it to
4 opposing counsel. If there's no objection, I'm letting it in.
5 All right? So let's just see if we can move things along that
6 way because, again, I know that some witnesses are going to
7 take a long time, and that's fine, but for the witnesses who
8 shouldn't take that long, let's try to move that along.

9 Anything else we need to deal today from the
10 government or the defense?

11 MR. BELL: No, your Honor.

12 THE COURT: From the defense?

13 MR. MAZUREK: No, your Honor.

14 MR. SHECHTMAN: No, your Honor.

15 THE COURT: Let me get a preview of where we're headed
16 tomorrow in terms of witnesses. So we have one witness on the
17 stand. Who's next after him?

18 MR. CAPONE: After this witness, it will be NYPD
19 captain who's direct will be very brief, maybe 20 minutes.
20 After that, Jona Rechnitz.

21 THE COURT: Okay. So the NYPD captain, can I get an
22 offer of proof on this witness? What is this witness expected
23 to testify about?

24 MR. CAPONE: This witness is expected to testify about
25 license plate reader data showing Mr. Seabrook's travel

HAPPSEA5

Kalter - Direct

1 throughout the city on December 11th, 2014.

2 MR. SHECHTMAN: Judge?

3 THE COURT: Okay.

4 MR. SHECHTMAN: The cross will be, I think, one
5 question, but we would stipulate to that testimony.

6 THE COURT: Okay. When you say you stipulate to that
7 testimony, let me make sure I understand what you're saying.

8 MR. SHECHTMAN: That Mr. Seabrook's car came in, that
9 it crossed the bridge at a certain time, that it went home at a
10 certain time. We're fine.

11 MR. BELL: We'll confer with counsel. If there's a
12 way to save some time, great. If not Captain Joy will be
13 brief.

14 THE COURT: Okay. That will be great. If counsel can
15 reach a stipulation on that, that's fine.

16 Does counsel for Huberfeld expect much
17 cross-examination on this witness, if this witness were to be
18 testifying live?

19 MR. MAZUREK: Captain Joy?

20 THE COURT: Yes.

21 MR. MAZUREK: None.

22 THE COURT: Okay.

23 MR. MAZUREK: But, Judge, I am going to be
24 cross-examining Gilad Kalter.

25 THE COURT: I understand, and my sense is that --

HAPPSEA5

Kalter - Direct

1 MR. MAZUREK: More significant.

2 THE COURT: -- this strikes me as a more significant
3 witness, and that's fine. And I'm not sure how much
4 examination Seabrook's counsel will have on this witness.

5 MR. SHECHTMAN: Probably have something, your Honor.

6 THE COURT: Again, that's fine. I have no problem
7 with giving counsel plenty of scope on the more significant
8 witnesses, but witnesses like this NYPD captain, if counsel can
9 reach a stipulation, that would be great. If not, let's just
10 keep it moving so that we can get to the witnesses that are
11 going to take a little bit more time.

12 All right. Anything else we need to deal with today?

13 MR. CAPONE: Not from the government.

14 THE COURT: From the defense?

15 MR. MAZUREK: No, your Honor.

16 THE COURT: All right. Okay. See everyone tomorrow.
17 Let's, again, have everyone try to get here at ten minutes to
18 9:00 to avoid unnecessary bumping into jurors. Have a good
19 evening.

20 (Adjourned to 9:00 a.m. on October 26, 2017)

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INDEX OF EXAMINATION

Examination of: Page

ELIAS HUSAMUDEEN

Cross By Mr. Shechtman 220

Redirect By Mr. Bell 322

Recross By Mr. Shechtman 335

MATTHEW BALEMIAN

Direct By Mr. Capone 343

Cross By Mr. Mazurek 354

Redirect By Mr. Capone 374

Recross By Mr. Mazurek 376

GILAD KALTER

Direct By Mr. Capone 378

GOVERNMENT EXHIBITS

Exhibit No. Received

307 236

306 238

402 243

1027 259

317 288

311 298

110 302

102 303

316 314

304 317

1	302, 308, 313 through 317	326
2	1113, 1114, 1115, 1118, 1119 and 1120 . . .	346
3	708, 709 and 712	383

DEFENDANT EXHIBITS

5	Exhibit No.	Received
6	B	261
7	C	283
8	E	292
9	G	315
10	MH103 and MH104	370